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# MR. PARNELL ANSWERED.

BY THE RIGHT HONORABLE ARTHUR J. BALFOUR, CHIEF SECRETARY FOR IRELAND.

THE history of the Irish land question is the history of Ireland. Every historical cause which has conspired during eight hundred years to make the Ireland of the eighteenth and nineteenth centuries the parent of so many political difficulties has left its mark upon the land system of the country. Tribal anarchy, conquest, rebellion, confiscation, famine, religious differences, penal laws, commercial restrictions, even Parliamentary franchises, have contributed, not slightly or remotely, but obviously and directly, to make agricultural Ireland what it is. Is such or such a district occupied entirely by grazing farms? This is not improbably because the population were removed at the time of a great famine. Is another district crowded with tenants who could by no possibility extract from the soil, even if they had it rent free, a prosperous livelihood? This is not improbably due to the fact that in the old days of the 40s. freeholder the landlord was of opinion that he gained in political importance by multiplying the number of voters on his estate, and made therefore no serious efforts to check, if he did not absolutely encourage, the rapid growth of population and the excessive subdivision of holdings.

Is agrarian crime judged by a different standard from that which is applied to other far less cowardly and disgraceful infractions of



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the law? The reason is to be sought in old traditions of lawlessness, partly caused, partly aggravated, by the successive confiscations to which the land of Ireland has been subjected, and which, in combination with other circumstances, too long to dwell upon here, have produced in the minds of certain sections of the population a hereditary belief that in agrarian matters the operation of the law may, with advantage, be supplemented by intimidation and murder. Is such or such a landlord the titular holder of a great tract of country at a fixed rent which is merely nominal compared with the present value of the land? He is probably the descendant of some courtier of Elizabeth, James I., or Charles II., who long ago parted with his rights to any interest in his property beyond the "head rent." Does another such man hold his land on certain forms of long lease? This is not improbably because he has inherited his tenure from a Roman Catholic ancestor who was unable, while the penal laws were in force, to become the legal freeholder of land which he was prepared to buy and the owner was prepared to sell.

The general result of these and other historic causes was that in Ireland, towards the middle of the present century, the immediate recipients of the rent were in many cases middlemen and in many cases absentees; while the ultimate recipients were too often the mortgagees. The relations between landlord and tenant were determined in part, but only in part, by conditions recognized in courts. In Ulster there had grown up a definite and universally-accepted custom under which the tenant was practically copartner with his landlord in the ownership of certain rights attached to the soil; while in other parts of Ireland vague memories of an age in which custom, not contract, had determined the tenure of land, lingered in the minds of the people, on which they founded an obscure and ill-defined claim of right, not admitted in theory either by lawyers or landlords, yet not as a rule inconsistent with the practice of the latter. Add to all this a population which, while entirely dependent on agriculture, was far in excess of the agricultural capabilities of the country, and we find ourselves in face of a social system so ill compacted that the first serious shock was certain to produce a catastrophe.

The shock came in the shape of the potato famine of 1846. Of the suffering and ruin which this great calamity produced on tenant and on landlord it is not necessary here to speak. Two

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results of it only need be noted. The first is the great diminution of population which, though unequal in its incidence,—in some districts possibly excessive, in others certainly insufficient,—has yet, on the whole, beyond all doubt enormously improved the well-being of the Irish agriculturist. The second is the large transfer of estates from the old landlords, who were ruined, to new purchasers, who were invited by Parliament to buy Irish land and to treat it in precisely the same manner that a citizen of the United States would treat land which he bought for a similar purpose—namely, as property which he might let to any one who would take it at its full competition value. On such estates there was necessarily a violent change from the quasi-customary tenure mentioned above to contract in its most modern form. A movement in the same direction was encouraged by the Land Act of 1860, passed by the then Liberal government of which Mr. Gladstone was a member.

Probably no country—and certainly not Ireland at any other period of its history—has increased so rapidly in prosperity as did Ireland in the twenty years succeeding the great famine. Nevertheless, the occasional exaction, principally by the new landlords, of their full legal rights had in certain cases necessarily produced either the reality or the appearance of hardship, and it was to prevent this that, first in 1870 and afterwards, more elaborately, in 1881, the governments of which Mr. Gladstone was the head directly reversed the policy which had been pursued up to the year 1860, and endeavored by formal enactment to frame a legal system which should be a successful imitation of the customary system, the tradition of which, as I have before said, lingered obscurely in the minds of many of the Irish tenantry.

I do not propose to offer any criticism upon these important measures. It may be said in favor of them that they were undoubtedly well meant; that they may have temporarily and partially softened the bitterness of agrarian discontent; and that the system which they were intended to amend did undoubtedly, in its practical working, succeed in combining almost every evil which observers have detected in the system of large estates with every evil which they have detected in the rival system of a peasant proprietary. Nevertheless, it may be safely said that the task they endeavored to accomplish was a hopeless one. Any legislator who attempts to abolish demand and supply as the

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determining causes of commercial value must put a court of arbitration, or something equivalent to it, in their place; and the result of such an attempt in Ireland has been, as it could not but be, to hand over to a department whose members are, as vacancies occur, necessarily appointed by the political party for the time being in power, the duty of determining for every man connected with agriculture in Ireland the "fair" value of his property, as distinguished from its market value.

Such a system would, in the opinion of the present writer, be intolerable, even if the principles on which the court had to reach its decisions were definite and easily intelligible; if the application of these principles to the particular cases was direct and obvious; if the opposing parties between whom justice had to be done were equal in numbers, in power, and in their opportunities of influencing public opinion; if the court could be protected from the attacks of a political party violent in their designs to the verge of treason, and unscrupulous in their methods beyond the limits of legality. In Ireland none of these favorable conditions exist; and there the system is only tolerable if it be regarded as provisional. But if it is to be regarded as provisional, to what is it intended to lead? A reversion to the old policy of 1848 and 1860, even if desirable, would be wholly impracticable. We cannot go back; and if we are to go forward, the only method which the wit of man has yet devised for again securing freedom in land contracts is by substituting for the existing system the simplest of all tenures—that, namely, under which the occupiers of land are also its owners.

Such, then, are, broadly stated, the circumstances under which the present administration have brought forward their proposals for facilitating land-purchase in Ireland. They have been met by a determined opposition from the home-rule party—an opposition the violence of which does not seem to be mitigated by the fact that the various arguments used against the bill are inconsistent with each other, and for the most part inconsistent with the previous utterances of those who use them. Before, however, I approach the consideration of these, or of such of them as Mr. Parnell has repeated in this REVIEW, it may be as well to remind the reader, in a few sentences, of the particular problem which the framers of the bill had to meet, although it would not be possible here to give any adequate account of the method in which they have en-

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deavored to meet it. In the first place, as the British electorate had declared that it was not prepared to run any financial risk for the sake of the Irish tenants, and as, at the same time, no tolerable measure of land-purchase is conceivable which does not utilize to the utmost the advantages of British credit, a plan had to be invented by which the Treasury might be enabled to lend to the Irish tenants under conditions which would supply an absolute assurance that neither the thriftlessness, misfortune, nor dishonesty of the debtor could imperil the security of the debt. In the second place, it was necessary, in order that the scheme might work smoothly, to find some method of introducing elasticity into the relations between the borrowing purchaser and the lending exchequer, so that, in case the former was prevented by undeserved calamity from paying the full amount of his annuity within the legal term, it need not be necessary to have recourse to the extreme measure of eviction. It was desirable, in the third place, to devise some method for dealing with the "congested districts" in the west of Ireland by which the pressure of population upon the means of subsistance should be lessened, partly by diminishing the former, partly by augmenting the latter. These, it will be admitted by all who have studied this question, are not objects easy to attain separately; still less are they easy to attain in combination: nevertheless, it is not too much to claim that they are attained, and attained for the first time, in the bill of the present government.

Such being in brief the scope of the measure, what are the objections to it brought forward by Mr. Parnell in his recent article? They appear to be the following: It is asserted, in the first place, that the amount to be advanced is not sufficient to buy out the Irish landlords and settle the Irish land question. It is asserted, in the second place, that, since the loan by the British exchequer to the purchasing tenants is ultimately secured on the amount of the exchequer contributions towards the cost of carrying out certain public objects in the localities in which these tenants live, default by the latter would result in these public objects remaining unfulfilled. It is asserted, in the third place, that while Ireland is under "coercion" (as it is called)—in other words, while the machinery of summary jurisdiction and short sentences is used to punish those offences with which, as experience shows, Irish juries cannot be trusted to deal—the tenants

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will not be in a position to make, on equal terms, a fair bargain with their landlords.

In regard to the first of these objections (that based upon the *inadequacy* of the measure), I have to observe that Mr. Parnell has overstated his case. If we take into account the advances authorized under the existing land-purchase acts, the total amount to be expended in the first instance on land-purchase in Ireland will not be thirty-three millions, as Mr. Parnell appears to suppose, but over forty millions. Moreover, this forty millions does not, as Mr. Parnell would have his readers believe, represent the whole amount to be expended under the government bill. On the contrary, as the loans are repaid by the first set of purchasing tenants, they can be reissued for the purpose of facilitating sales to a new set of tenants, so that, in reality, the government bill not only provides an enormous fund immediately available for the creation of a peasant proprietary, but it supplies, in addition, a constant revenue applicable to the same purpose.

Now, is this provision so inadequate as Mr. Parnell would have us believe? The land-purchase acts have been in operation for nearly five years: during that period less than ten millions has been applied for; so that, if experience is to be taken as a sufficient guide, and the new loan of thirty millions is to be as slowly taken advantage of as the old loan of ten millions, it will be fifteen years before the whole forty millions is exhausted; and by that time the repayments available for reissue will amount to no inconsiderable sum. Personally, however, I am perfectly ready to admit that I would rather have a hundred millions at my disposal for purposes of land-purchase than forty millions. But does any one suggest that the present Parliament of the United Kingdom will be induced to sanction the larger amount? And, if not, is any Home-Ruler sanguine enough to suppose Parliament would be more anxious to place its credit at the disposal of Ireland when Ireland is "managing its own affairs in College Green" than it is at the present moment, with the full responsibility for governing Ireland resting upon its shoulders? I think not; and I gather that my opinion is shared by Mr. Parnell; since the remedy he suggests for the inadequacy of our proposal consists, not in increasing the amount of the loan, but in diminishing the purposes to which it may be applied.

Indeed, if there be any force at all in Mr. Parnell's second

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objection,—that, namely, which is based upon the inexpediency or injustice (I do not quite gather which it is) of hypothecating the imperial contribution to local purposes as security for the imperial loan,—it is clear that the government plan errs, not on the side of giving too little, but of giving too much. There is no conceivable security for the British exchequer which does not sooner or later, in some form or other, involve the seizure, in case of default, of Irish funds which might otherwise be devoted to Irish purposes; and if this procedure be regarded as either unjust or inexpedient, then all schemes of land-purchase may be forever abandoned. But the truth is that in urging this objection Mr. Parnell is attempting the difficult task of combining two inconsistent methods of attack. He is rather complimenting his allies by adopting one of their arguments than stating his own deliberate opinion, for he has told us both in speech and writing that this hypothecation of local contributions is the proper, and, indeed, the only, method of guaranteeing the necessary advances; and if this be once granted, it would be difficult—I venture to say impossible—to show that any other measure has been or could be contrived which more effectually safeguards the local purposes from any possible injury arising out of the dishonesty or the ill-fortune of the purchasing tenants.

We may take it, then, as admitted by Mr. Parnell and those who agree with him that the bill takes for its security the only security which is available, and that it proposes to raise upon that security as much as the British taxpayer will consent to lend. The only question, therefore, which remains for discussion on Mr. Parnell's first two objections is whether the money could be made to go further in solving the Irish land question than it is likely to go under the bill he is criticising.

Mr. Parnell has suggested no less than three methods by which this desirable economy in the employment of the Treasury advances may be attained. The first, which substituted a plan for what is called fining down rents for the plan of purchase suggested in the bill, he developed at great length in his speech on the second reading. It met, however, with but little favor from any section of the House of Commons. It is not alluded to, even in the most distant manner, in his article in THE NORTH AMERICAN REVIEW, and, I presume, will not be heard of again. His second method may be treated with more respect. It consists in excluding

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from the advantages of the act the tenants of farms above a certain valuation. There is undoubtedly much to be said in favor of a plan which would increase the number of occupiers who would be able immediately to purchase their holdings, just as there is much to be said against a restriction which, by formally excluding from the benefits of the act many of the most influential tenants in Ireland, might create in an important class a feeling of soreness and discontent not favorable to a settlement of land controversy. But in any case this is a question of detail, though doubtless of important detail, proper for settlement in committee of the House of Commons, but in no sense affecting the main principles of the bill. I should add that in the bill as it actually stands there *is* a limitation somewhat of the kind which Mr. Parnell seems to desire, though he has not thought fit to mention it to his American readers. This would certainly have the effect of excluding from the benefits of the act the very tenants who he seems to fear will chiefly take advantage of it—namely, the "gentlemen graziers" occupying "several large farms, and not residing upon any of them." Under ordinary circumstances, the utmost amount that may be advanced to any single occupier is £3,000; and where, under certain exceptional circumstances, this limit is passed, the advance cannot exceed £5,000. Now, I submit that neither £3,000 nor even £5,000 is adequate for the purchase of "several large grazing farms."

Mr. Parnell's third method of economizing the employment of the forty millions may be more summarily dismissed. Put shortly, it consists in taking a large slice of the landlord's property without compensation, so that the exchequer loans may more easily be able to provide the compensation required for what is left. It is true that this simple financial operation is disguised under phrases which seem to imply that nothing further is contemplated than securing to the Irish tenant the value of his improvements; but these improvements are already amply secured to him by laws to which, I believe, there is no counterpart either in the United States, France, Germany, or Belgium; and any further proposals by Mr. Parnell or his party purporting to have this object in view are, if we may judge by experience, really nothing else than more or less ingeniously-disguised methods for depriving the landlord of all property in the soil he owns beyond its prairie value.

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I come now to the third of Mr. Parnell's objections, which is, perhaps, the most singular of all. He objects, it appears, to any land-purchase scheme being passed while Ireland is under "coercion"; on the grounds that no tenant can under such circumstances contract freely with his landlord as to the terms of sale. In order to support so startling a thesis he is obliged to misrepresent the provisions of the Coercion Act, which, he states most erroneously, are to render illegal all combination on the part of the tenants; to invent imaginary prosecutions of Nationalist Members of Parliament, Mr. Cox, Mr. Patrick O'Brien, and others, for advising tenants not to give more than a certain amount for their holdings;* to ignore the fact that the clauses in the so-called Coercion Act dealing with criminal conspiracy are in operation over but a small part of Ireland; and that he himself, when, during Mr. Gladstone's government, all Ireland was under coercion, did not consider that he was on that account precluded from warmly supporting in Parliament a resolution in favor of land-purchase brought forward by two members of the present Conservative cabinet. But, in truth, to any one who knows the condition of Ireland during the last ten years there is an absurdity far beyond the necessity for formal refutation in supposing that the tenants are at any disadvantage in making bargains with their landlords. For every act of injustice, dishonesty, harshness, or oppression committed during that period by a landlord towards a tenant, it would be possible to find a hundred committed by tenants towards their landlord or towards each other. And if proof were required that, at all events, the tenants who have most experience and knowledge of the working of the purchase acts do not share Mr. Parnell's view, it may be sufficient to point out that in the Protestant parts of Ulster, where by far the largest relative number of sales have taken place, where no illegal combinations exist, and where, therefore, if these be a protection against landlord exaction the tenants are specially defenceless, the farmers have no complaint to make against the bill except that it is not made compulsory and universal.

***Mr. Parnell probably had in his mind the prosecution of Mr. P. O'Brien for an intimidatory speech delivered at Goresbridge on the 18th January, 1888. But the only circumstance connected with that trial which gives any color to Mr. Parnell's allegation is a count in the indictment, which made no reference to the *amount* of the price proposed to be paid for farms, *and which was not proceeded with by the Crown.* There is, so far as I know, no foundation whatever for the statement with regard to Mr. Cox, M.P., and others.**

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There is but one more criticism of Mr. Parnell's on which it is necessary to say a word, although it is directed rather against the administration of the existing purchase acts than against the provisions of the larger measure which now awaits the final sanction of Parliament. He states that the "grossest favoritism has been shown in the selection of the estates for whose purchase advances of public money are to be made. The large absentee owners have been favored, while the smaller resident owners have been left out."

The uninstructed reader, seeing these words, would naturally infer from them that the government, or some department over which the government have control, selected the estates on which the purchase was to take place; that the selection was made as a favor to the selling landlord; and that a great public wrong was perpetrated by singling out as the objects of this specially favorable treatment the estates of large absentee landlords. It requires but a small knowledge of Ireland and the land-purchase acts to see that all these complaints are groundless and even absurd. The tribunal that administers the existing land-purchase acts is entirely independent of the government, and it is proposed to strengthen it under the new act by adding to it two judges of the High Court. The business of this independent tribunal is not to select the estates on which purchases are to take place, but to determine whether public money can be properly advanced for the purpose of enabling purchases to take place in those cases in which landlord and tenant have come to an agreement as to the terms they are respectively prepared to accept. The only possible way, therefore, in which the Land-Purchase Commission could show "favoritism" in the "selection of the estates for whose purchase advances of public money are to be made" would be by corruptly refusing advances in the case of small estates where the security was good, or corruptly sanctioning advances in the case of big estates where the security was bad. No one, I believe, has ventured to bring any such accusation against the two eminent commissioners who administer the existing land-purchase acts; nor would Mr. Parnell himself indorse it when the true import of his charge was thus made clear and explicit.*

* In 1888 the Irish government introduced into the House of Commons a bill which proposed, *inter alia*, to associate the County-Court judges in certain proceedings with the Land Courts, as then existing. This proposal was resisted by the Irish Nationalist members, and Mr. E. Harrington, M. P., speaking in their name on the 30th April, 1888, "freely acknowledged" that the Land-Purchase Commissioners

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It is, no doubt, true that many large land-owners, some of them absentee, have taken advantage of the existing acts; but the reason is obvious. Absentees are specially ready to sell because to them Irish land provides not a home, but merely an investment; and when estates are large there are fewer landlords to the same number of tenants, and therefore relatively fewer negotiations to be carried through. An estate, for instance, worth £100,000 can probably be sold with the same amount of higgling and bargaining as an estate worth £5,000, though the operation will absorb twenty times as much public money. But why are we to regard these things as a calamity? Hitherto facilities for purchase have been regarded, and rightly regarded, as a privilege to the tenants. Why are we to exclude from this privilege the tenants of large landlords? Hitherto land-purchase has been regarded, and rightly regarded, as an object to be aimed at in the interests of social order. How is social order likely to be promoted if a distinction meaningless as well as invidious, is drawn between tenants who, in respect to the size of their holding, its cultivation, and its rent, are in precisely similar circumstances, and who differ only by reason of the size of the estate of which their holdings respectively form a part? Hitherto every land-reformer who has discussed the Irish land question has desired to increase the number of resident owners, and to diminish the number of absentee owners. It was reserved for Mr. Parnell in 1890 to discover that the owners whom it is most desirable to expropriate are those who, in his own words, "have lived in the country," and "have spent their rents on their estates and among their neighbors."

I have now dealt briefly, but I hope not inadequately, with the chief criticisms which Mr. Parnell has brought before the American public on the government proposals. Whatever be the value of his objections, one thing, at all events, will probably be admitted by the readers of his article—that he has very imperfectly explained what, nevertheless, imperatively calls for explanation; namely, the opposition which the Nationalist party are offering to a bill which goes so far towards carrying out a policy to which they have more than once given a formal sanction. Manifestly no adequate justification of this is furnished by the baseless and

under the Ashbourne Act had "tried to exercise a useful discretion in its administration," and he suggested that the proposals of the government were made in consequence of the confidence displayed by the people of Ireland in the court as it existed.

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for the most part trifling objections brought against the particular form into which the Land-Purchase Bill has been thrown. A better and more significant explanation will be found in considerations drawn from the general policy of the Parnellite party during the last ten years. It is quite true that in the original programme of the Land League land-purchase found a place. It is also true that it was advocated in America by Mr. Parnell in 1880. But to suppose that it has ever been an important part of the working programme of the Irish revolutionary party would be to mistake the whole character of the movement which Mr. Davitt originated eleven years ago.

Since that time the Nationalist party have introduced innumerable bills dealing with the land laws into Parliament, and have made innumerable speeches upon the land question in Ireland. None of these bills have touched the subject of land-purchase; none of them have offered, or pretended to offer, any solution, however inadequate, of the economic and social problems which press for solution in the "congested districts." That none of their Irish speeches have advocated land-purchase I will not venture to say—to assert any unqualified negative about so vast a mass of printed matter would be rash; but it is certainly not rash to say that the amount of time they have devoted to recommending land-purchase is relatively infinitesimal, and that all the eloquence, all the energy, and all the organization of a great party have been steadily and unswervingly employed, not for the purpose of settling the land controversy on a permanent basis, but for the purpose of embittering it in the interests of a political revolution. In the words of the Special Commission, that party have entered "into a conspiracy, by a system of coercion and intimidation, to promote an agrarian agitation against the payment of rent for the purpose of impoverishing and expelling from the country the Irish landlords whom they styled the English garrison."

No wonder that they view with undisguised hostility a measure which, in exact proportion as it is successful, must deprive them of their chief instrument for carrying out their avowed intention of making the government of Ireland impossible.* No wonder that those who think social anarchy the fitting prelude to home

* Mr. Lane, M. P., on the 23d September, is reported to have said at Bandon, County Cork: "Make it impossible for Mr. Balfour's government to rule this country by coercion, or, indeed, for a Tory government to rule it by any means whatsoever."

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rule should oppose with all their energies a method by which the weakest part in the social fabric may be effectually strengthened.

Yet it must, I imagine, sometimes occur to the more far-seeing and patriotic members of the Nationalist party that the principles which by precept and example have been burnt into the souls of the rising generation of Irish peasantry during ten years of agrarian agitation are not those which make good citizens or even good farmers; and that, from their own point of view, it is but a shallow and a short-sighted policy to reject on political grounds a measure the social advantage of which they themselves are constrained to admit—a measure which Great Britain is not likely again to offer them, and which without the aid of Great Britain Ireland can never obtain for herself.

ARTHUR JAMES BALFOUR.

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# CHILDREN OF THE STAGE.

BY ELBRIDGE T. GERRY, PRESIDENT OF THE SOCIETY FOR THE PREVENTION OF CRUELTY TO CHILDREN.

THE American people love novelty. Like the Athenians of old, their great pleasure is either to hear or to tell some new thing. This is particularly the case with their amusements. Novelty at the present day is essential to the success of every exhibition. It is that alone which gives zest to the modern opera and drama, and when it ceases public interest in the performance also ceases.

For many years past there has been a tendency on the part of theatrical agents and brokers, with a view towards reaping a pecuniary advantage from the exhibition, to train and exhibit very young children of both sexes in what is known as the stage-children business. These are picked up usually under contract with their parents, who are tempted by their own indigent circumstances, and by specious promises of future prominence in the theatrical or operatic profession, to place their children in the hands of these agents, for a limited period and with very little guarantee, if any, that the terms of the contract will be carried out, or the result such as the promise would indicate. Gathered into troupes, the children are then drilled into a so-called musical performance of some light opera, or in some silly little song or dance; they are taught the gestures, walk, and action of the minor business of the stage, or are required to learn the libretto of the opera by heart, and are instructed how to render it for the approval of the audience. They are then exhibited in various theatres throughout the country, at all seasons of the year when an engagement can be obtained; and so long as the novelty of the exhibition continues and money is made, the exhibitions are frequent.

After a while, when the novelty wears off and the public refuses to patronize the performances, the troupe is broken up, frequently by the person in charge disbanding the children in some

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distant city. But wherever this disbanding occurs, the children have no future. Their voices prematurely strained and used, their physical systems broken down by constant exposure to the draughts of the theatre and the loss of sleep incidental to late nocturnal performances, render them utterly unfit for employment in any legitimate operatic business. And as their education in the theatrical line has been of the most meagre description, none of them secures any position in that profession. Then opens the only market for what is left of them—the low variety dives, dime museums, and drinking-saloons in our great city. These are not mere matters of supposition. The Societies for the Prevention of Cruelty to Children, instituted by wise legislatures in the several States throughout the Union for the enforcement of the laws for the protection of children, possess the details of too many cases where the result is as stated.

Now, the true secret of the success of the American people as a nation is in its care for the young. In every State in the Union laws have been framed with the utmost care for the protection of children of tender years not merely against brutal assaults and wilful neglect, but also against the rapacity of ignorant or avaricious parents or guardians, who seek by the public exhibition of the children in theatrical performances to put money in their own pockets. The principle upon which such laws are based is a broad one. The State as the sovereign protects each individual member of its future constituency in the enjoyment of health, vitality, and education, to the end that boys shall, on arriving at maturity, be physically capable of bearing arms in defence of the State and of intelligently exercising the elective franchise; and that girls, on becoming women, shall be so capable of properly discharging the maternal function and of educating their offspring that the physical and intellectual material of the body politic shall not be destroyed or impaired. And the laws governing theatrical exhibitions of children forbid such exhibitions under the age of sixteen as the limit of such protection and as the legislative result of an elaborate and careful investigation into the relative physical strength of children.

Theatres in our large cities are divisible into three classes: (1) reputable, where only the legitimate drama is exhibited to audiences composed of cultured and intelligent people; (2) semi-reputable, where the stage is devoted to spectacular exhibitions,

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vulgarly, but appropriately, termed "leg drama," the scanty costumes in which barely evade the prohibition of the Penal Code on the subject of decency; (3) disreputable, where both dialogue and performances fester with indelicacy, and the audience, composed of the lowest and most degraded class of society, engage in smoking and drinking as an adjunct of their enjoyment of the exhibition.

Now, it is an elementary rule of the criminal law that the letter of the statute which is aimed to suppress an evil must be sufficiently comprehensive in its language to cover it. The application of the law necessarily depends on the circumstances of each particular case. Thus the wilful exhibition of a child within the age, when in a sick and suffering condition, in a reputable theatre, would result in a severe punishment of the manager, on conviction; but to prosecute him in the absence of such facts and merely for a violation of the letter of the law, while followed necessarily by conviction, would result in only a merely nominal sentence. On the other hand, the exhibition of children in the other two classes of theatres, where there was not only danger of their health being injured, but of their morals being corrupted, would be dealt with by the courts in a much more vigorous manner. And the reasons that exist for the necessity of the law, which will be next considered, commend themselves to the consideration of every person whose sympathies are enlisted in the protection of the helpless.

First, the exhibitions prohibited are physically injurious to the children. They deprive them of their natural rest and subject them to unnecessary physical efforts, which engender disease. Thus a child of tender years is forced to sing and dance at night, half-clad in scanty theatrical costume, in a theatre where the draughts are incessant, and where the exertion of the performance constantly overheats the system so as to render the exposure still more dangerous. Encores frequently compel additional exertions, until at the close of the performance, tired and worn out, the child goes from the theatre through the cold and wet of the streets to gain such little sleep as the late hour and its exhausted system permit. In the recent "Bluebeard, Jr.," case some seven little children between five and nine years old, living in Brooklyn, were repeatedly followed from the theatre through rain and storm to their residences, some three miles distant and on the other

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side of the East River. They did not reach their homes until half an hour after midnight, and were then so tired as to be found asleep in the cars; and this occurred night after night in succession while the play was produced.

In the next place, when such children are exhibited in the daytime, they lose their education. In all such exhibitions, whether at night or by day, much time is spent at rehearsals; so that, apart from the question of physical exhaustion, which unfits them for study, they have no opportunity of obtaining proper education, for which the State makes ample provision alike for the rich and poor, and which is the best capital in this country to insure success in life. Said the Hon. Grover Cleveland, in a recent speech: "In every enlightened country the value of popular education is fully recognized, not only as a direct benefit to its recipients, but as an element of strength and safety in organized society. Considered in these aspects, it should nowhere be better appreciated than in this land of free institutions, consecrated to the welfare and happiness of its citizens and deriving its sanction and power from the people. Here the character of the people is inevitably impressed upon the government, and here our public life can no more be higher and purer than the life of the people than a stream can rise above its fountain or be purer than the spring in which it has its source. Teaching the children of our land to read is but the first step in the scheme of creating good citizens by means of free instruction." Children of tender years have a natural disinclination to study. Hence the law makes education compulsory. But when children are used in these exhibitions, their minds are never in a fit condition to study, for when not actually performing they are absorbed with their stage business, which to them is far more palatable. And they gain nothing in return for the loss of their education. Singing in public at an early age almost invariably strains and cracks the vocal chords, and in many cases what with care might in time have proved to be a fine voice has been prematurely wrecked and destroyed. Of course they cry when not permitted to perform. Children proverbially cry when deprived of what is hurtful to them. They enjoy the performance on account of the excitement, the glare of the footlights, their brilliant tinsel costumes, and the applause of the audience, which flatters their vanity. They know nothing of the evil results—how should they?



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Again, the associations are bad for the children. In the spectacular plays alluded to they are constantly brought into contact with persons about whose morality or virtue the less said the better. Constantly exhibiting in such troupes, the girls soon lose all modesty and become bold, forward, and impudent. When they arrive at the limit-age of the law, they have usually entered on the downward path and end in low dance-houses, concert-saloons, and the early grave which is the inevitable conclusion of a life of debauchery. The boys, unfitted by their idle life for useful work, find employment for a time in the lowest class of theatres, and end by becoming thieves or tramps. Neither boys nor girls ever attain any position in the legitimate theatrical profession, which requires a very different preliminary education and training.

The preposterous assertion is frequently made that these little children are "lawfully earning their living" by these exhibitions, and that therefore the law is harsh and oppressive, and should not be enforced. Let us look at this for a moment. The law compels parents to support their children during their tender years, and nowhere sanctions the reverse of this rule. If parents are unable to provide for their children, the law provides institutions for that purpose. No parent has any right to profit pecuniarily by the exhibition of a child within the prohibited age, for the reason that within that age the law asserts the child to be incapable of so exhibiting without injury to itself. It was to protect children from being used in these theatrical exhibitions in order to make money for their parents or guardians that the law was passed, just as it forbids their use in begging, peddling, or in factories. The children are wretchedly paid—usually about forty cents a night; they rarely have any supper during or after the performance, and they seldom live to grow up. Those who clamor for their employment are influenced solely by pecuniary reasons. Past history of the juvenile opera furnishes a sad illustration of the truth of this. More than one such company has been recruited from the children of the poor, their parents being beguiled by specious praise of the talents of the children, or by promises and part payment of money. Then the start on the road with no one to look after them, the champagne suppers with gilded youth of the town after the performance, the ruin of the children as the inevitable result, the ultimate disappearance of the treasurer of the troupe with the funds when far out West, the

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finding of the girls in the only homes of vice left to them, and, finally, the agonizing appeals of the parents for a rescue, often too late,—these furnish cogent reasons why the evil should be nipped in the bud when the attempt is made to engraft the song-and-dance business upon the legitimate theatrical profession.

Long before the iron hand of the law was invoked for the protection of children from rapacious and brutal parents, the starving and abuse of these miserable little slaves of the stage was both universal and treated as a matter of course. The travelling mountebank trained the children attached to the company by the liberal use of the whip, and bread and water in scanty rations punished any omission by the unfortunate child to comply with the requirements of his daily performance. Feats dangerous to life and limb by these unfortunate children were gazed on with amazement by the patrons of the show. Occasionally a fatal result was cured by the kalsomining verdict of a coroner's jury. Too often a single fall resulted in spinal injuries and death, after months of paralysis in a public hospital. Case after case occurred where these so-called gifted children were driven to an early grave. For the physical exertion of song and dance necessarily engenders nervous excitement; when the curtain rises a blast of hot air rushes from the auditorium on to the stage, thus increasing the perspiration caused by the physical exertions which follow; and then when the curtain falls there is a rush of cold air which rapidly checks that perspiration, and the result is a chill too often followed by fever and disease which speedily become incurable. And yet the sole object of all the exhibitions, disguise it as you may, is in reality to put money in the pockets of somebody, for these exhibitions are never given gratuitously and in every case there is somebody to be paid for the use of the children. And the whole of this alleged right to the money proceeds from the idea that the child is the property of the parent, that it may be starved, ill treated, or forced to do whatever the parent may see fit to compel, without any protection or redress whatever, unless the consequences are so serious as to amount to a felony

In other words, these child-slaves of the stage, but for the present humane provisions for the law, would be subjected to a bondage more terrible and oppressive than the children of Israel ever endured at the hands of Pharaoh or the descendants of

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Ham have ever experienced in the way of African slavery. Child-slaves they have well been called. Helpless and feeble from their tender years, they are unable for that very reason to invoke the provisions of the law enacted for their protection. They are really contending against the parents and guardians who happen to have control of them during their childhood. And when well-meaning people who constitute the theatre-going public unite with those parents and guardians, applaud the exhibitions, insist upon encores, and denounce as unfair and unjust the laws which are intended to prevent the premature wrecking of the constitutions of these little innocents, well may they despair of ever having an opportunity of earning an honest living, or of freeing themselves from the vicious surroundings, evil associations, and alluring temptations into which they are plunged by the avarice and cupidity of their parents.

The most curious phase of the subject is the attitude of the press in regard to these little slaves of the stage. Ordinarily its influence is always exerted on the side of humanity wherever little children are oppressed or ill treated. It has been the outspoken champion of their rights whenever these have been overlooked, and notably so in the case of their employment in factories, where child labor is but the prelude to permanent destruction of health and the precursor of an early grave. Yet if the sacred precincts of the stage are invaded, if an effort is made to enforce the law enacted for children's protection from premature exhibition in theatrical performances, at once an outcry proceeds from the press, not only against the law, which is denounced as oppressive, but against the action of societies charged with the duty of enforcing it, as fanatical, arbitrary, and unjust. The latter are denounced for preventing the children from earning an honest living, and public opinion is invoked by plausible editorials against any interference with them or their exhibitors, who reap a pecuniary benefit from their performances. Now, why is this so? What is the hidden motive or reason for this array of the press against the law and against the children it was designed to protect?

Let us examine the subject a little more closely. To the uninitiated such utterances are only the sentiments of a "free and enlightened press," as after-dinner orators are fond of phrasing it. In reality, it is nothing of the sort, but purely a matter of business. Newspapers are conducted for the purpose of making

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money for their proprietors. Nothing pays so well as theatrical advertisements. A careful examination recently made shows that these advertisements are usually either of sixteen or twenty-five lines, that the charge per line for each insertion in the great dailies runs from twenty-five to forty-five cents, or from $4 to $7.20 a day for the sixteen-line notices and from $6.25 to $11.25 for the twenty-five-line notices; so that a single advertisement of sixteen lines nets the paper from $120 to $187.50 a month, $1,080 to $1,687.50 a year, and an average of ten a day $10,800 to $16,875 annually. The twenty-five-line insertion nets $216 to $337.50 a month and $1,944 to $3,037.50 a year, and an average of ten such makes $19,440 to $30,375 annually; the year being in each case computed at nine months so as to discard the summer months, when the theatres are chiefly closed. In round numbers, between $20,000 and $60,000 a year is derived by a first-class newspaper from its theatrical advertisements! The reader of the censuring editorial has only to turn to the theatrical advertisement column of the same paper for a complete solution of the motive of the article. Now, is it surprising under these circumstances that, with a view of retaining the patronage of theatrical managers, the real interests of the children are too often forgotten by the press in its desire to propitiate the favor of those who can withdraw at will, or transfer to other newspapers, these lucrative advertisements?

There are two sides to this subject—the side before the curtain, where the glare of the footlights and the external glitter, aided by the orchestra of the press, are apt to blind the perceptions of people who are naturally humane and who are amused by the apparent innocence of the "little tots," as they are called; the other side is that behind the curtain, where the real injury to the children presents the strongest plea in their behalf for a rational view of the subject, uninfluenced by plausible suggestions from those who seek to discount their future lives simply for their own personal and pecuniary advantage.

ELBRIDGE T. GERRY.

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# THE EMANCIPATION OF THE FAMILY.

BY MONA CAIRD.

## PART II.

AT THE time of the founding of Rome, the patriarchal system appears to have been fully established, with all the sentiments regarding women and family life which it encouraged. That system and those ideas became stereotyped in the ancient codes. Romulus is said to have been the author of the marriage laws and the laws of parental authority. They can boast a hoary antiquity, and can claim to have grown up and received their form and sanction from a nation which has given laws to the whole civilized world.

The position of women under Roman law has fixed and defined their position at the present day. It is remarkable how the idea of perpetual tutelage is still firmly rooted among us in a modified form, and how all the popular ideas of woman's sphere, duties, proper demeanor, and virtues are found in the singular system which made the wife as a daughter in her husband's house and her children as her brothers and sisters. The *paterfamilias* handed her over to the power of her husband, who then had the same rights of punishment and command of life and death which the father had previously enjoyed. He might even sell her into slavery. The paternal power in its extreme form began with the city itself; was legally established by Romulus, and after three centuries was inscribed on the fourth table of the Decemvirs. The twelve tables were regarded for ages as the epitome of wisdom and morality: the young learned them by heart; the old held them as little short of sacred. In the reign of the Emperor Augustus, Erixo roused the fury of the Roman people by whipping his son until he died. The Emperor saved him from their vengeance, the law being on the father's side. Gibbon speaks of the exposition of children in the public places, when the head of

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the family wished to get rid of them, as "the prevailing and stubborn vice of antiquity."* The wife could not inherit except for her husband, and "if the original title were deficient, she might be claimed, like other movables, by the use and possession of an entire year." She was, legally, not a person, but a thing.

In modern times one must go to the Russian peasantry for an analogue to this development of the *patria potestas.* "If you cannot thrash your wife, whom can you thrash?" the head of the family demands indignantly. The marriage ceremony principally consists in the handing over by the father of his whip to the husband, with the advice to use it vigorously †

In Rome the family (as is, of course, well known) was not what we understand by the word. It was a group of kinsmen held together by its head, the kinship being counted through the male line only. Ties of blood, however, were of less moment than the fact of being under the family tutelage. Adoption was a legal process which gave the adopted child all the rights and liabilities of a genuine *agnate.* Gradually the law was modified, and in the reign of Augustus the laws Julia and Papia Poppæa were passed, which obliged fathers to provide their daughters with a dowry, and forbade them to prevent their marriage. Many other changes crept in, and at last the Emperor Justinian, in his reform of the whole body of Roman law, placed married and family life upon an entirely new footing. The husband lost his absolute control over his wife's dower, and in case of separation he had to restore it entire. Justinian seems to have desired to give to the wife an independence which was in direct opposition to the spirit of the old laws. It has often been said that during the five purest centuries of Roman history divorce was unknown. It is not generally added, however, that during that time women used to poison their husbands in a manner that not even respect for the sacred institution would probably now prevail upon men to put up with.

In the later times of the empire women attained a degree of freedom which is cited as the cause of the extreme corruption of that epoch and the decay of the imperial power. This explanation, if accepted, would oblige one to ignore all the influences which were at that time combining to destroy the strength and moral vigor of the people: the vastness of the empire, open

* "Decline and Fall of the Roman Empire," Chapter XLIV.
† "Impressions of Russia." Dr. Georg Brandes.

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on all sides to attack; the tyrannical form of government, which subjected a whole nation to the caprices of emperors half-mad with the intoxication of power and glory; above all, the contact with the luxury and the vices of the East, where certainly it was not the freedom of women which had plunged the nations in corruption.

Moreover, the progress of decay had been going on for years, long before women achieved their independent position and divorce had become easy. Niebuhr goes so far as to trace the seeds of decay to the time of Hannibal. The condition of the nation at that time, after so many frightful wars, was one of extreme misery. The poor were ruined, the middle class impoverished; the rich, on the other hand, had become imitators of Eastern luxury, self-indulgent, avaricious. The Roman games were now on a scale of extreme splendor; the buildings of the nobles were magnificent; their habits extravagant and brutal. Gluttony had become a fashionable vice. The constitution was democratic only in form. "No one," says Niebuhr, "thought of the republic being in danger, and the danger, indeed, was yet far distant; but the seeds of dissolution were nevertheless sown, and its symptoms were already beginning to become visible."*

The freedom of divorce and the independence of women are made responsible for a condition of things which had already commenced in the time of Scipio. On this rough-and-ready principle, it would be easy to find causes for anything. Select any two facts that happen to be contemporary, and boldly attribute one to the other (it is immaterial in which order they are placed).

The later Roman jurisprudence, inaugurated by Justinian, became singularly liberal in its treatment of women. In the time of Gaius the system of perpetual tutelage fell entirely into discredit. The family rights remained nominally unimpaired. The family lent the wife to the husband, not relinquishing their claim. Thus the husband had no longer supreme power over his wife, and the appointed guardians of the woman left her, to all intents and purposes, to do as she pleased. The old religious form of marriage, in which the couple eat *far* or rice together, as a symbol of mystical union, had fallen unto disuse.

Confarreation (the religious form), coemption, and usus (the

* "Lectures on the History of Rome," Chapter LXXXI.

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latter both civil forms) had been the old rites of marriage. Now a form of civil union, which had previously not been considered strictly reputable, came into more general use. The stricter enactments were altered or evaded, for there was no longer a feeling among the people corresponding to the spirit of these old laws, which for so many centuries had been unfitting women for liberty, and the whole nation for the liberal institutions which the Emperor Justinian had attempted to bestow upon it.

After the triumph of Christianity, there was a reaction against this liberty which the Roman women enjoyed, and against the easy laws of divorce. It seemed obvious to moral enthusiasts, careless of history, that the liberty and the easy divorce were the causes of the corruption; and Christian teachers declared themselves against both. This was the first check to the freer institutions: the next was given by the fall of the empire.

The conquering tribes brought with them their own laws and usages, their own patriarchal system; and thereupon commenced a process of compromise between the barbarian codes and Roman jurisprudence. According to Laboulaye, the *patria potestas* of the Romans and the *mundium* of the conquering tribes, although both representing the power of the chief, are quite distinct in character; the *mundium* being for purposes of protection for the "pupils," while the *patria potestas* was entirely for the power and advantage of the father. Among the Germans the wife and children are able to acquire a fortune and to spend it as they please, and the power of the father ceases when the child attains his majority. The daughter is released from the *mundium* on marriage, but she then passes under a more rigid government, from which nothing can liberate her. In ancient history the woman has been under the power of the father; modern history shows her under that of the husband.

Laboulaye* is much puzzled by a peculiarity in the Salic law, which certainly cannot be accounted for except by assuming it to be a remnant of the matriarchal age. The Salic law excludes women so long as there are males to succeed to the *allod*, or tribal land; but when the deceased chief leaves no children, the father and mother succeed together; secondly the brothers and sisters, and then the *sister of the mother, in preference to the sister of the father.* The *brothers* of the father or mother are not men-

* "*Condition des Femmes,*" Laboulaye, *Chapitre XI.*

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tioned. Quite inexplicable is this apparent exception to the leading idea of the Salic law on the exclusively patriarchal theory; but very familiar to the student of the matriarchal age is that choice of the mother's brother or sister for inheritance. This preference for the mother's sister occurs in the *lex Salica emendata* adopted by Charlemagne, and is consistent with the manuscripts of Wolfenbuttel, Munich, and Fulda. Against these authorities, the attempt of *savants* in the last century to suppose an error in the texts, because they were unable to reconcile these incongruities in the law, seems somewhat audacious.* The Salic law, cries Laboulaye in despair, is full of inexplicable difficulties!

The habit of setting apart an inheritance for the bride was remarked by Tacitus. Something very nearly approaching settlements seems to have been made to a woman on marriage, and the church adopted the Roman idea that a marriage was not legal without a dower. The *Morgengabe,* or gift of the bridegroom, the day after the wedding, was an almost universal practice among the northern tribes. So large was often the gift that Luitprand thought it necessary to restrict it to a quarter of the husband's property among the Lombards. The Burgundians, Lombards, Visigoths, Saxons, had different laws of succession and marriage; in some the Roman law remained dominant, while in others the old Germanic ideas had full play. Women were greatly respected, but they were still under tutelage. If they attempted to resist the authority of the husband, they were "drowned in mud."

The canon law had a very profound influence upon matters of marriage and family life. It overcame the civil law in many instances. It opposed divorce with all its strength, and even looked askance at second marriage. Its position on this question was strictly logical. Marriage, being a sacrament, could not be broken in time or eternity. It is difficult to see how, on any other grounds, the theory of indissoluble marriage can be reasonably upheld. A union that is sacramental, sacred, indissoluble—except sometimes, has in it elements of the comic. The Reformation, however, deprived marriage of its sacramental character, while confirming its

*"*Condition des Femmes.*"—"*J'ajoute que la loi Salique n'est point la seule coutume barbare qui ait conservé des traces de cette preference des femmes dans le cas dont nous nous occupans; la loi Ripuaire, par exemple.*" The Ripuary laws were, in almost all respects, similar to the Salic.

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barbaric and tyrannical elements. The civil laws of the barbarians admitted divorce for murder, adultery, or magic. The German laws, unlike the old Roman codes, usually allow the mother to be guardian to her children. This was recognized among the Bavarians, Burgundians, and Visigoths. No agnate could interfere with the fortune and education of the children.

It is rather humiliating to remember that in England, till within a short time, the mother's right to guardianship was not recognized, that the father could appoint another guardian, excluding her, and that even now the devoted efforts of many liberal-minded men and women have not succeeded in obtaining for the mother her full rights to her children.*

A significant fact, which does something to tone down the impression given by Tacitus of the reverence and almost religious veneration in which the German women were held is that, if one of them were carried off from her home and during her exile had children, these children were regarded as belonging to her husband, on the ground that she was *in mundium*—that is, she was his property, honestly purchased, and consequently her children were his also.

In more or less modified forms, this patriarchal idea has ruled the family with remarkably little change—considering the vast changes that have taken place in other respects—to our own day. Feudalism tended to confirm it. In chivalry alone we find the origin of all ideas that modify and ennoble the former relations of the sexes. Thus we have a sort of lopsided development—a forward move in one direction, checked or held back by the immovable family relations, the continued tutelage and subjection of women. The family gradually lost its old position as the social unit, and the individual took a more prominent place; yet this change was also confused and rendered half-futile, because only male individuals were able to assume this attitude of independence. Society gradually organized itself on the individualistic basis, leaving the woman without the protection which she used to enjoy under the old group, or family, system, yet without giving her the compensating advantages of the new order. She lost security without gaining freedom. She still suffered every sort of disability, legal and social; she still remained without choice of occupation; still had her sphere and her duties,

* Custody-of-Infants Bill: 1886.

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her virtues and opinions—nay, her very feelings—chosen for her; yet there was now no certainty of support, no absolute legal claim which would keep her safe from the rush and scramble of the modern competitive world, where each is for himself and the devil takes the hindmost.

The woman crippled by inherited inaptitude for self-reliance, with adverse public opinion, stubborn prejudices, not only of others, but in herself; with a thousand inborn fears, instincts, longings, needs; with a physical nature trained for centuries to one end and purpose, weakened for all others; and dowered with exquisite sensibilities, unending capacity for pain,—the woman of the nineteenth century finds the old shells and sheaths of a decaying patriarchal system drawn away from her; she finds herself restrained on all hands, but no longer protected and provided for. She sees her brothers going into the world with a thousand advantages, to her denied. For them a good education, encouragement in study, fostered talents, cherished opportunities. For them a good start in life, so far as lies in the power of parents to bestow, and on the father's death the inheritance of the bulk of his property, to the exclusion of the daughters, whose profession is to marry, and so provide themselves with a home and competence.

But into this necessity (for it is scarcely less) the modern spirit of competition enters. The social unit is no longer the family in the old sense: it is now the individual, and the individual has to contend with other individuals for the very ground on which he stands and the air—or, rather, the carbonic acid—which he breathes. Thus the woman must struggle with other women for the sole means of livelihood that has hitherto been recognized as fitting for her sex: the family claims from her duty and obedience, as of old,—though its rights are, of course, becoming much attenuated,—but it expects her to provide for herself. Her attractions are her capital; let her invest it to the best of her ability. On no account must she go out of her "sphere"; but the fact is sometimes overlooked that she is by no means certain of finding that "sphere," though she be ever so willing to be dictated to on the subject of what she must and must not do. If she does achieve this end, or, rather, "sphere," she is still under the old condition of tutelage as far as restraint goes, but she is now treated as an individual as regards respon-

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sibility. If she sins, she is punished; it is only in matters to her advantage that she remains under tutelage. She may pay taxes, but she may not vote; she may be divorced for unfaithfulness, but she may not divorce.

In entering the marriage relation (humorously called a contract), she takes upon herself a tie infinitely more stringent, infinitely more imperious and extensive in its action, than the bond into which the man enters. Yet here also, though less free, she is equally responsible—nay, really far more so; for what is a man's sin against the claims of marriage compared to the woman's, in popular estimation? I do not contend that this injustice was absent from the old system, for in that also, although a *thing*, the woman was often punished as a *person;* nevertheless the family felt bound to provide for and protect her; if she were carried off or injured, a *Wehrgeld* was charged to the offender, not, perhaps, so much on her account as for the sake of her value to the tribe; but the *Wehrgeld* in some of the states was twice as high for a woman as for a man, as if with the object of giving her extra protection. If a woman had a grievance against any one outside the family, one of the men was told off to fight with him—a duty which the woman occasionally performed for herself.*

The notion of protection and duty towards the woman under tutelage was much stronger under the full-blown patriarchal system than under our own; the ideas of subordination on the part of women have outlived those of their claims; the dower, once a matter of course, now is the exception, and the old *Morgengabe* has dwindled down to a diamond ring or trinket.

There are some people who would not be sorry to see the old system restored in its entirety; believing that women are unfitted for independence, and that their best qualities will disappear if they become free and self-sustaining in all the relations of life. It seems strange that any one can be unresponsive to the idea of freedom or regard it as unsuited to any human being worthy of the name. Still the idea is at least logical; it has an artistic unity, and gives room for argument. But he who would uphold the present confused, patriarchal, competitive, woman's-sphere-and-woman's-responsibility condition of things can have no principle of any kind to stand upon; he must be simply an echo or reflection of what exists around him, without the power of a genuine reac-

* "*Condition des Femmes.*"

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tionary or the foresight of a progressive thinker. It seems abundantly clear that she who is treated as a minor must be provided for and protected as a minor. On this idea the swarms of women earning their own living at ill-paid work are an anomaly.

On the other hand, if the woman is to share in the change which has reorganized society, if she is to be held responsible for her actions, and expected to earn her living either by competing with others for a husband, or by some other means, then, undeniably, she must be freed from every possible disability—the long, monotonous, one-sided training of the past has already loaded her with too many of these; she must be admitted on equal terms to the banquet of life, and nothing—no matter how shocking to our previous ideas of her place, her qualities, her virtues, her "nature"—must be forbidden her. There is no rational alternative.

The present condition is evidently without consistency, without reason or principle, and indicates a mere confused stage between two orders—the old and the new. Society has before it a hard task. It has to reconsider its economic and industrial system; to face the danger to the race involved in the still greater pressure of competition which would follow the addition of women to the ranks of paid workers. It is evidently unfair to refuse to admit a whole sex to this competition; it is evidently a further burden, a rivalry to the harassed male workers, if their sisters are freely admitted on equal terms.

What is to be done? The obvious answer appears to be, Instead of being rivals, become coöperators. Some such change of system, however it may be organized, grows every day more necessary. Meanwhile the spirit of liberty among women is increasing rapidly, and as soon as economic independence gives them the power to refuse, without harsh penalty, the terms that men have hitherto been able to dictate to them, in and out of marriage, society will have passed through a bloodless revolution. It is then that marriage—at present a mere mouldering branch of the patriarchal tree—must alter its nature and its form; not by the modification of a few laws, but by the altered conception of a whole people.

Few seem yet to have realized what the independence of women would really mean, and how absolutely our present forms and ideas of marriage hang upon their subject condition. Those

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who have opposed the smallest relaxation of the old laws, who have resisted the education and progress of women, were from their own point of view eminently wise; for upon the old condition of tutelage hung many a cherished belief, many a "sacred institution." It has been easy hitherto to maintain stringent forms of marriage, because the real brunt of it has been borne by women, while men have been comparatively free. Is it conceivable that when there are, in good sooth, really two to the marriage bargain, one of the parties to it will consent to fetter herself by bonds which the other repudiates? The "contract" can no longer remain unequal, and it remains to be seen how tight and irrevocable men will be willing to make the bond which they, too, must literally carry out. All men who are eloquent about the "sacred institution" will know that it rests upon them to sustain the sacredness which they will then, perhaps, less glibly talk about. They can no longer depute that office to their wives, together with the children and the cares of housekeeping. The "sacredness" which depends on restraints and punishments for its existence can then be fairly considered on its merits.

How tremendous must be the change which the independence of women, if achieved, would introduce into the whole conception of social and family life, is made more strikingly evident by remembering the almost incredible position which the married woman held, as regards her children, before the passing of the Custody-of-Infants Bill in 1886. Upon laws of this kind what we have been pleased to call the "sanctity of marriage" has, for centuries, been peacefully resting. Before 1886 the father of a legitimate child was, as far as legal rights are concerned, its sole parent, "though the law imposes upon the mother, under criminal and other penalties, liabilities and obligations almost equal to that of the father."*

The case is reported of a girl who applied to the court for permission to spend her holidays with her mother, the latter being separated from her husband for no fault of her own. The court refused on the ground that the father's rights were sacred. "With these sacred rights the court has not interfered, and will not interfere." Only in the most extreme cases of cruelty to the child would these rights be set aside. The father, says Lord-Chan-

* "The Infants Act, 1886. A Record of a Three Years' Effort for Legislative Reform, with its Results."

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cellor Hardwicke, "is entitled to the care of his own children, by nature and by nurture." This view seemed eminently reasonable to august opponents of the bill. It is amusing to observe their horrified indignation at the bare thought of the father having to act with a guardian appointed by the mother, although the latter, according to law, might be *altogether excluded* from guardianship in favor of some one of her husband's appointment, and the utmost she could expect would be the privilege (in *her* case—in *his* the humiliation) of acting with another guardian.

Even to this day the mother becomes sole guardian only when no other has been appointed by the father. She can appoint a guardian to act after her own and her husband's death, but not to act *with* her husband (as he can appoint one or more to act with her) unless he is declared by the court to be unfit to have sole charge. Thus even this bill, fought for so devotedly by its friends, has been deprived of its principle of equality, and retains the spirit of the older laws of tutelage and patriarchal rule. The fifth clause is supposed to be a great triumph for the mother, because it empowers her, even while living with her husband, to apply to the court on any question regarding the custody of the children, or other important matters; and the court is actually directed to have regard to the wishes "as well of the mother as of the father."

Our country is to be congratulated on this achievement, and on the liberality of our law, which discerned fully four years ago that a child generally has two parents, and that one of them, though comparatively unimportant,—even verging on the superfluous,—might feel hurt if her existence and wishes were altogether ignored. Naturally there is no necessity to allow this little politeness to interfere with rights more sacred, resting, as Lord Salisbury pointed out, "on far deeper foundations than most of those which we have deemed firmly established."

Immense is the benefit which mothers enjoy under that bill of 1886; yet even now their position is subordinate. The woman who bears, suffers, risks her life, rears, trains, watches—of whom, indeed, the law demands these things, as well as public opinion—she whose body and soul have been subjected to this terrible service—has still only secondary rights to her children; she must still take the small mercies of the law and be thankful. Indeed, she has reason to be, seeing that four years ago she had no rights at all!

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Consider all this in conjunction with the tremendous rigor with which maternal duties are pressed upon a woman; with the demand that she shall surrender to her children health, happiness, self-development, interests, pleasures; with the unbounded, merciless condemnation which is heaped upon her if she prove a neglectful or unenthusiastic mother: so amazing are the two ideas in combination that the sense of the stupendous injustice is almost swallowed by the sense of the stupendous absurdity, and —as happily often happens in the study of English law and English opinion—the stress of indignant and despairing feeling finds timely relief in a burst of laughter!

Upon stupendous absurdities like these the sacredness of marriage has for centuries been resting. Father and mother are to share pleasantly between them the rights and duties of parenthood—the father having the rights, the mother the duties. No wonder there was opposition to the bill of 1886. They were dear privileges that it attacked. Upon such a groundwork indissoluble marriage would securely last forever.

If we could only realize how fundamental, in our ideas of family and social life, is the old patriarchal feeling, how strong it still is in all our laws, we should then more clearly see that marriage, with its one-sided obligations, is not a thought-out, rational system of sex-relationship, but a lineal descendant of crystallized barbarian usages, cruel and absurd even when the warlike condition of society gave them some color of reason; revolting now to all ideas of human justice and of dignity. While society, in other directions, has been moving and changing, ideas on this subject have remained stagnant. This is the last citadel of the less intelligent kind of conservatism, and it has been defended with the ferocity and jealousy with which one instinctively fights for a last hope. History and science are rapidly undermining it; removing those imaginary foundations in the "will of God" or the "ordinance of nature" on which so many happy theories have been built. Under the new light of knowledge, the favorite satires of men against women lose their brilliancy; they sound stupid and ungenerous, like the taunts of gaolers against their half-starved prisoners.

To bring the institution of marriage up to date is among the next great tasks of progressive civilization. So far has it lagged behind that this proposal sounds like a proposal to break up so-



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ciety altogether. So much the worse for society. Politically, we have had to learn the difficult lesson of liberty; to recognize the enormous importance to the state of the spontaneity of each individual, and the uselessness of the most perfect state machinery, without citizens who are free to make blunders if they will, and to serve their country with the intelligence and the public spirit which are the outcome of freedom. Politically we have learned our lesson well; so well that we are disposed to think that the principle of liberty forbids us to reconsider or alter our industrial system, because the change would interfere with certain rights enjoyed by individuals under the present order, and therefore *strictly conditional upon it*—an idea showing a strange confusion of thought. But we have not learned to apply this wholesome and bracing principle to social, and still less to family, life. As soon as we do apply it boldly, unswervingly, the present marraige system stands arraigned, offending as it does against every principle of liberty and equality, against the rights and duties of the individual, against the strength and vitality of the state, which lives or languishes as its individuals grow or decline in the qualities of independence, original power, and vigor of character.

A tie, such as marriage under its present conditions, which tends to level down differences of opinion, to check and restrain whatever is strong and salient, to glorify mediocrity, submission, one-sided self-sacrifice, uniformity of life, feeling, and even such details as mode of living, dress, and manner—such a tie is like a strong cord tightly twisted round the neck of a living creature, impeding all the functions of existence. We have abandoned *some* of the patriarchal rights: why do we not take them all away? Why do we not sweep from our state these remnants of a system which we repudiate utterly as far as political questions are concerned, which is out of touch with modern ideas, but whose influence we still keep warm and active at the very heart of our life, in the home, where the history of the coming generations is preparing?

That marriage in its present form and the subjection of women are interdependent will surely not be denied by any thinker. If women had shared with men the privilege of making the laws, it is clear that marriage would not have bound the two sexes unequally; and it seems very unlikely, if both law and opinion had

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insisted on men really submitting to the conditions of this institution, that they would have made it so inflexible and so irrationally harsh in its demands. They would then have seen the incongruity of the ideas of "sanctity" and enforced union, and the cruelty of ruining so many lives in the supposed interests of society, which the marriage law does its best to fill with miserable homes.

The right of private contract is a right very dear to a liberty-loving people; yet in the most important matter of their lives—one which affects the present and the future for themselves and for their country—they have consented to forego it!

Mere alterations of the law will not accomplish the change of feeling which the temper of the age must gradually work in all ideas that concern men and women.* The law seldom, if ever, precedes average opinion. But as opinion develops in the direction of contract marriage (supposing that it *does* in this regard claim what has been claimed in all others), the safeguards will tend to form themselves with the opinion. A contract system, at first with careful limitations, might slowly drop its restrictions, as experience proved that the education of the nation had fitted it for the just enjoyment of the new liberty. So long as the idea holds that a husband or a wife must, in assuming that character, consent to subscribe to a set of conditions decided by some other persons, and that if these conditions are not assented to, honorable union (as society considers) is impossible, so long will freedom be lacking in the most important relation in life; so long will the right of private contract be denied.

The extreme danger or difficulty of allowing people, under gradually lessening restrictions, to make their own marriage bargain seems a fiction of the imagination, especially when we consider that every one is more disposed to hold to an agreement which he himself has made than to that which has been made for him. Under such freedom, it must be remembered, all children would be the children of mothers who bore them willingly, because they wished for them—not simply because they were married and thought it therefore right to bear them, or feared to express an unpopular distaste for this so-called duty. The sense of responsibility would, in such a case, be very great, and it would

*Some aspects of this question I have dwelt upon in an article in the *Fortnightly Review*, for March, 1890, and I will not, therefore, more fully treat it here.

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surely act as a restraint upon the caprice or inconstancy of parents. In the cases where it did not have this effect, the law would protect children against neglect or ill-usage.

I firmly believe that the condition of children under a freer, more developed social life would be infinitely happier and better, even when their parents were divorced, than are the children of average undivorced parents who live undissentingly under the present marriage system. In the shelter of "happy homes," under the care of ignorant nurses or overworked mothers, deprived, through lack of knowledge, of physical advantages often of the simplest kind, of reasonable training, healthful interests and recreation, the unlucky children, for whose fate under a freer system so much anxiety is expressed, are now enduring a thousand wrongs, and suffering in a thousand unnecessary ways, because on this subject the majority of parents still cling to the superstitions of greatgrandmothers, whose words of wisdom are handed down, pure and unadulterated, from mother to daughter, assisted, generation after generation, by such lore of old nurses as may happen to attach to them *en route*.

Any change bestowing greater freedom, increasing the sense of responsibility, and extirpating the enchained ideas that marriage necessarily implies children, and motherhood the power of rearing and training them, would be the beginning of a happier future for the ill-used little beings, whom we make serve as apologies for the old-established tyranny which we have not yet rebelled against in our domestic institutions.

What I would advocate, as regards this great question, is the adoption of the ideal of individual liberty, not only in political matters, but in social and in family life. The home, where at present the love of liberty has scarcely dared to show its face, I would make its very temple. Without irreverence for the past, we must see that the time has fully come for us to throw off the tyranny of surviving superstitions which are holding us back and causing a dislocated social condition, because in public matters, and for one sex, we are working on the principle of individual liberty and the right of private contract; while in all the relations of home and family, and for the other sex, we are still guiding ourselves with the shreds and tatters of a by-gone order which is no longer able to afford us any sound support.

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When marriage and domestic life have been brought up to the tide-line of general progress, we shall have entered upon a new era. Then, and not till then, ought we to regard ourselves as having left behind us the shadows of the "dark ages"; then, and not till then, can the discoveries of science, the development of education and thought, begin to take their full and beneficent effect upon the race and its future growth; for then only will the *whole* race be open to all the influences of the age, and able to use its power in a more or less united effort toward enlightenment. Hitherto we have been carefully fostering in our midst a school of superstition, to which we intrusted the task of fortifying the minds of the rising generation against all the knowlege which the contemporary schools of philosophy and science were laboriously endeavoring to acquire and promulgate. Equal political, social, and domestic rights for the two sexes; the economic independence of women (hanging in a great measure on the evolution of our industrial system); the establishment, rapid or gradual, as may prove desirable, of free marriage,—this at last would bring us to the end of the patriarchal system.

May we speed the parting guest!

MONA CAIRD.

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# CRITICS OF "PROBLEMS OF GREATER BRITAIN."

BY THE RIGHT HON. SIR CHARLES W. DILKE, BART.

A SORT of promise was given by me some time ago to the editor of THE NORTH AMERICAN REVIEW that I would deal in that periodical with American and Canadian criticism on the "Problems of Greater Britian," in case I should happen to see reviews discussion on which might be of interest to a wide circle of readers. I have now had the advantage of perusing most of the notices which have appeared in the leading journals not only of Europe, the United States, and the Dominion, but also of South Africa and India. They are more indulgent to the shortcomings of the book than could have been expected in advance, and I have little to do except to express my thanks.

The problems of the British Empire which concern the relations of Canada and of the United States cannot be mentioned without bringing Mr. Goldwin Smith into the field. The questions concerned with those relations are peculiarly his own, and if he has failed to carry with him, as I think he has failed, the opinion either of the Canadian Dominion or of the United Kingdom, or, I may add (though of this your American readers will be far better judges), even of the United States, every line that he writes is full of interest and full of literary charm. In *The Forum* for May Mr. Goldwin Smith, in a manner most courteous to his adversary, has fallen foul of me for, as he thinks, rebuking him for dealing with Canadian questions rather in England and in the United States than upon Canadian soil. I should not have ventured to rebuke him upon this head. He is fully justified, I need hardly say, in writing upon such a question in the English newspapers or the widely-read American reviews. All that I said, or meant to say, was that the Canadians themselves seem to pay more attention to political controversy carried on in the journals of the Dominion, and to resent strong attacks upon the policy which

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commands a majority at Ottawa when the criticisms appear across the border.

Mr. Goldwin Smith dislikes my occasional use of the term "the Empire" for the Queen's dominions. But it seems to me, I confess, a convenient and it is an official term, recognized by Parliament, by the War Office, by the Admiralty, by the Post-Office, and other government departments. If Her Majesty, Queen Victoria, and the Emperor of Russia should declare war on one another, that war would extend to the whole of their respective subjects, and some term is needed to express that portion of the world's surface which acknowledges the Queen, or Queen-Empress, and would be concerned on our side in such hostilities. "The Empire" is, as I have said, a convenient term, and one not more open to objection than any other that can be devised. Neither have I assumed, as I am made by Mr. Goldwin Smith to assume, that the British Empire will constitute a permanent unity. This very question forms one of those problems which I have discussed, but he would be indeed a daring man who should venture to assume for certain, or to confidently prophesy, that Australia, Canada, India, and the United Kingdom will be under one sceptre in times far distant from our own. It is a curious fact that Mr. Goldwin Smith, after quarrelling with the term "the Empire," is forced to use it in the (for so brilliant a writer) somewhat clumsy phrase, forced upon him not by his taste, but by the necessities of controversy, "this Empire, or whatever it is to be called." In his admirable article, "The Hatred of England," in the May number of THE NORTH AMERICAN REVIEW, Mr. Goldwin Smith also makes use of the phrase, "Great Britain has in her empire three hundred millions of people. . . Read any one of the treatises on the defences of her empire."

Mr. Goldwin Smith seems to imagine that, as portions of the empire become more democratic, there is less chance of the expenditure necessary to defend its parts being encountered by its people, and he thinks that "Problems of Great Britain" proves that in Australasia "a military policy, even of a moderate kind, has brought unpopularity on its authors." No unpopularity attaches in Australia to a policy of local defence, even on a costly scale; and, on the contrary, the colonies are now engaged in devising increased measures of protection to be added to those, already in most cases ample, which their present system gives.

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What is unpopular is paying Australian money in the form of what in the southern continent is called "tribute." The Soudan expedition is now unpopular in Australia, and the Naval-Defence Bill is unpopular in Queensland, but Australian defence by Australian forces, on a scale sufficient to render safe for the British flag all the adjoining seas, is popular enough.

In the main portion of his *Forum* article Mr. Goldwin Smith appears to be arguing rather against the protective policy of the Canadian governmental party than against my views; and, as a Free-Trader, hostile to that policy, I do not feel called upon to defend it. But he comes then to Canadian defence, and admits that it is reasonable that, if Canada wants independence, she should be ready to defend it. He asks, however, how she is to afford the money necessary for armaments sufficient to protect so dangerous a frontier against a nation vastly superior in wealth and numbers. Switzerland is not defended by natural frontiers (as is popularly supposed), for her two great cities of Geneva, on the one side, and of Basle, upon the other, lie open to the invader, and the occupation of two or three points upon her railway system (which, but for her army, could be easily reached) would paralyze her defence. Switzerland is vastly inferior in wealth and in population to Germany and to France, but she is protected by her patriotism and her willingness to make sacrifices in order to keep on foot an admirable democratic army. If Canada desires to retain her independence of the United States, as a self-respecting country she should put herself in a condition of defence such as Switzerland occupies. But, as she will never be attacked by the United States if she shows a real desire to remain independent, she need not be "armed to the teeth" (to use the phrase of Mr. Goldwin Smith) or attempt to keep on foot a permanent army against a people who will not employ any such force against her, or ever attack her in a desire for the conquest of an unwilling people. I admit, however, the fairness and the weight of the main argument of Mr. Goldwin Smith, that, if Canada does not keep up a large organized defence militia, the inference may be drawn that there exists in Canada no very strong opposition to eventual union with the United States. Mr. Goldwin Smith thinks that the adoption of the French tricolor in the province of Quebec implies that the "alien nationality" is by no means a strength of British rule; but he does not controvert the

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argument that union with the United States would swamp the French Canadians, and is for that reason never likely to be sought by them.

Incidently, in the course of the same article, Mr. Goldwin Smith two or three times writes of the poverty of large parts of the Canadian soil. In this matter, he seems to me, I confess, to somewhat exaggerate. He speaks, for example, of the maritime provinces of Canada as being separated from Quebec "by a wide and irreclaimable wilderness"; and I am, therefore, the more glad to find that in his last paragraph he distinctly declares Canada to be "a country full of natural resources." That is a considerable admission for Mr. Goldwin Smith, and one which will encourage Canadians more than they will be discouraged or saddened by anything which has come from his pen.

In his article called "The Hatred of England," in THE NORTH AMERICAN REVIEW, Mr. Goldwin Smith mentions one subject upon which I had written in the Canadian part of "Problems of Greater Britain," and in which we take wholly different views as to the facts of the case. He tells his readers that "Anglophobia . . . drives British emigrants from American shores to Australia at a time when the self-governing element in this country is in danger of being swamped by alien elements." This passage clearly implies that British (that is, English and Scotch) emigration to the United States is decreasing in proportion to English and Scotch emigration to Australia. Yet so far is this from being the case that the very opposite is true. The English and Scotch emigrants to the United States have pretty steadily increased. In 1885 they were 87,000; in 1886, 99,000; in 1887, 132,000; in 1888, 130,000. On the other hand, the English and Scotch emigration to Australasia (and the deduction of New Zealand would not seriously affect the proportions) in the same years has been 33,000, 38,000, 29,000, and 27,000.

An interesting American article on "Problems of Greater Britain" was that in the Chicago *Tribune*, which, discussing at length my views upon the fisheries question, asked impatiently when the time might come when men should fish where they pleased and for what they pleased, and sell their products where and how they pleased, regardless of frontiers. The writer, however, failed to see that his excellent suggestion has no bearing upon the Newfoundland problem discussed by me, for the diffi-

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culty there consists in the existence of foreign rights on shore, such as the United States would not tolerate in her territories were Newfoundland in her possession.

As a rule, the articles, and especially when favorable, as most of them have been, contain little of that kind of criticism which can lead to useful answer. The hostile criticism which proceeds from France, and, generally speaking, from France alone, has been based upon a misconception of the author's views. Where I have quoted Prevost-Paradol's "La France Nouvelle," and shown that the twenty years which have passed over our heads since the book appeared have only confirmed the justness of his prediction as to the dwarfing of the French, the German, and the other south, west, and central European powers, by the Americans, the British, and the Russians, French writers who have not read my book, or who have read it hastily, have been inclined to think that I was not only expressing my own views, rather than those of a French patriot, but wishes entertained generally by my fellow-countrymen. The stationary position of the French, the absorption of the Germans outside Europe by the Americans and the British, are scientific facts of the highest interest, and thoroughly worthy of careful investigation; but all interest in such speculations disappears when they are approached with loss of temper. It is then only possible with advantage to repeat the statement that the arguments which bear upon the point put forward in "Problems of Greater Britain" are unaffected by personal predilection.

The most useful criticism of the work bears upon a subject which would probably be of less interest to American readers than that which might have been aroused by almost any other portion of it—namely, upon British and Indian imperial defence. The Chicago *Tribune*, indeed, discussed in some detail the defence of India as presented in my book, but only to assure me that a single American county with which it was acquainted, Cook County, could furnish a larger force than could British India. *The Edinburgh Review*, in the course of a very favorable article on the book, went out of its way to make, incidentally, an onslaught against me for want of patriotism in revealing to our possible enemies the details of our military weakness. If we could secure adequate military reform in the British Empire without talking about our weaknesses, I should be the first to deprecate the practice of discussing them; but, unfortunately, this has been found to be

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impossible, and the only chance we have of obtaining any remedy for a state of things absolutely deplorable, and dangerous even to the continued existence of the fabric of the British government, is discussion. The Hartington Commission has lately brought together an enormous body of the most competent evidence upon the subject, but I understand that little except the result is to be given to the world. The consequence will, I fear, be that this most important inquiry will remain sterile, and that once more "nothing will he done." I might answer the criticism in *The Edinburgh Review* by pointing out that the great semi-official newspapers of India, such as *The Pioneer*, single out the chapter on "Indian Defence" for special praise, and, representing, as they do, British-Indian military opinion, evidently believe that the chapter was calculated to do good, not harm, to the interests with the defence of which these journals in a peculiar degree feel themselves charged.

To us in England one of the most interesting notices which has been called out by my book is that in the *Novoye Vremya*, which contains these words :

"Yet a little while, and, by seizing Herat, we shall present a pistol at the very heart of English domination. . . . The Vistula, the Bosphorus, and Herat are the three points of the Russian strategical triangle. The English keep persisting in an unequal struggle only because they await the result of the issue on the two former points rather than that at the third position of Herat."

This passage, again, however, affects matters of interest rather to Britons than to the people of the United States.

Some naval officers in all parts of the world have objected to the views put forward in my chapter on "Imperial Defence." Those opinions, have, however, since been, as it seems to me, confirmed by the revelation of the line taken by Admiral Sir F. Richards upon the Hartington Commission. The report of that commission includes a naval protest against sailors being called upon to say beforehand what they could or could not do in case of war. The reason of their inability to do so is that our sailors have had hitherto no proper staff to work out such questions for them, for our Naval-Intelligence Department is too young and too weak. But the fact at least shows how necessary it is for the army administration to have ready in advance its system for garrisoning our colony stations, and this is plainly the opinion of even the naval member of the commission. It is difficult to

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write upon such matters without becoming a pessimist upon the question of imperial defence. We in Great Britain own the most costly army in the world. We are continually pulling it about; and even during the few years in which I have myself taken a special interest in the question, blue books upon the subject have accumulated feet high.

The general public understands so little about defence problems that suggestions for remedy of present evils are easily met by criticism upon detail, when all that matters is the principle. For example, I have written in support of the proposal of the Hartington Commission for the creation of a general staff, which, indeed, I had advocated in advance. It may be admitted that the staff proposed by the Hartington Commission would differ in many important points from that German staff which has proved successful; and it is easy, therefore, to criticise the report, and even to pull it to pieces. But, on the other hand, the principle is there,—that the best brains which are to be found in an army should be allowed to come to the top, and that real power should be given to the men who know how to use it. The same result possibly might be achieved in a different way; but that which is incapable of defence is the present system, or absence of system, under which we spend far more than anybody else and have nothing to show for our money, and are not even safe in our island home. We spend on defence in the United Kingdom over thirty-three millions sterling a year of taxes, which is brought up to over thirty-eight millions a year by including expenditure out of loans; and in British India we spend about twenty millions. So that, when allowance is made for the Canadian, Australasian, Crown Colony, and Cape expenditure, we soon find that we have run to an expenditure well over sixty millions sterling a year upon British imperial defence.

Pessimist though I am upon this question of imperial defence, I am an optimist with regard to the likelihood of a general war. Never, to my mind, in our time has there seemed less chance of the outbreak of such a conflagration than during those three or four last years in which it has been continually prophesied by a portion of the press. One great influence on the side of peace, indeed, has lately gone, for Prince Bismarck in the last fourteen years has been a powerful factor on the side of peace preservation throughout the continent of Europe. At the same time, the fall

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of Bismarck causes no startling change, so long as the Emperor William does not break up the alliance of the central powers in order to substitute for it a German-Russian alliance. Supposing the alliance of the central powers to continue, Austria will be a drag on warlike projects, and will, in fact, say to the young Emperor and to Italy: "Go on, gentlemen, if you like, but do not count on me to go with you."

While, however, no change of policy is implied in the dismissal of Prince Bismarck, and while, indeed, the Emperor declares to all who choose to listen that he retains the alliance of Austria and of Italy, and that friendship for England and desire for peace which were the base of the Bismarck policy of 1876 to 1890, the removal of the inventor of that policy is, of course, a certain cause of risk. I am no admirer of Signor Crispi, but I freely admit that that risk would be increased if he were not at the head of Italian affairs. Signor Crispi is a man who has learned to live alongside of Austria better than could most Italians, and who, on the other hand, as an ex-Garibaldian, is of an Italian patriotism which cannot be suspected. It must always be remembered, however, that in the alliance of the central powers, Prince Bismarck's main difficulties were two—the spirit of the Hungarians and the constant desire of the Austrians and Italians to fly at one another's throats. When the Hungarians feel that they have Germany behind them, their anti-Russian views are always on the verge of being pushed to an extreme so as to bring on war—danger No. 1. Austria looks upon Italy as a needy aristocrat looks upon a successful self-made man, and Italy wants something which, if it is to be obtained, must one day be obtained at the expense of Austria, —danger No. 2. The foreign affairs of Europe were lately in the hands of two men—father and son—who (whether they have great and obvious faults, as, according to their detractors, is the case, or whether they were heaven-born statesmen, as is thought by their admirers) were, at all events, men of vast experience, thoroughly skilled in the management of affairs, knowing and known to every statesman in Europe, and capable of weighing their men. They have been succeeded by the best general in the German Empire and by a public prosecutor from one of the smaller states. The general is one of the ablest administrators in the world, by the proud admission of the Chancellor whom he displaces; but while he is lost to Germany as a general, it is not certain that he is capa-

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ble, by training or by experience, of bearing the load of civil responsibility which has now been thrown upon him. Of the public prosecutor who has become Secretary of State for Foreign Affairs, without a seat in the cabinet, I know nothing, and my ignorance, I believe, is pretty generally shared; and all that I can say is that his former functions do not appear to specially fit him for the more delicate duties of his new post.

So much for the present; but as regards the future we cannot be without anxiety. The Emperor William does not desire to set up the German-Russian alliance as against the present league of the central powers. He is coming again to England, and he will once more express in this country that affection for us which is sincere; but he is a little rash, and he is about to once more visit Russia, and in his wish to make things pleasant to all his neighbors he may go a little far. It is always possible that, with her extraordinarily able diplomacy, Russia may one day succeed in replacing the alliance of Germany with Austria by an alliance of Germany and Russia, leaving Russia free to attack Austria, with a view to the ultimate completion of German unity by the absorption of the German provinces of Austria into the German Empire; and in this ultimate danger lies the greatest of those which will menace European peace.

CHARLES W. DILKE.

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# SUMMING UP THE TARIFF DISCUSSION.

BY ANDREW CARNEGIE.

THE NORTH AMERICAN REVIEW asks me to participate in the free-trade and protection duel, in which Messrs. Gladstone and Blaine were the first to cross swords. I comply with pleasure.

Anything that Mr. Gladstone writes is of great interest; but his contribution to this controversy does not seem to be specially instructive to the United States, because it does not touch the problem with which they have had and still have to deal. It is thoroughly British, and deals almost exclusively with Britain's mistaken policy of taxing food from abroad without the possibility of thereby increasing the home supply. Let us consider what protection and free trade mean to the Briton. Great Britain was too small to produce sufficient food to feed its people. The land being already fully under cultivation, the amount of food products derivable from it could not be increased; nevertheless, duties were imposed upon food from abroad. This constituted a monopoly in favor of the owners of the land, which was bound to raise the price of food as the population increased. Imagine what the price of food would be there to-day if the thirty-seven millions of her people had to be fed from the products of her own soil. They could not be so fed. Millions would have to starve. Free trade in Britain only means that the people of Britain compelled the landed aristocracy to open the ports to food supplies from other lands. It is for this reason that Mr. Gladstone thinks of "monopoly" and "immorality" whenever he speaks of protection; for protection to the produce of the land of Britain was perhaps the most effective monopoly ever established. By no possibility could it be evaded. All that Mr. Gladstone says in regard to the "folly" and the "immorality" of this attempt to maintain a monopoly and starve the people is true and well deserved.

But how different the meaning of protection when used by the American. We have in the United States, as Mr.

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Gladstone says, "a world, and not a very little world," within itself. Previous to its severance from England, manufactures were prohibited by law in this world. It was an exclusively agricultural land, realizing the ideal which Mr. Gladstone paints for it now; growing the corn, the oats, the wheat, and the cotton, furnishing the pork and the beef, for other lands, but dependent for all its manufactured articles upon the parent country. When the colony obtained its political independence, it naturally wished to establish its industrial independence also. That great Scotchman, Alexander Hamilton, first struck the keynote of the second struggle when, as Secretary of the Treasury, December 5, 1791, he said:

"This idea of an extensive domestic market for the surplus produce of the soil is of the first consequence. It is, of all things, that which most effectually conduces to a flourishing state of agriculture." "To secure such a market there is no other expedient than to promote manufacturing establishments." "It is the interest of a community, with a view to eventual and permanent economy, to encourage the growth of manufactures. In a national view, a temporary enhancement of price must always be well compensated by a permanent reduction of it."

American statesmen have followed in similar strains. Thus Washington's last annual address, December 7, 1796, says:

"Congress have repeatedly, and not without success, directed their attention to the encouragement of manufactures. The object is of too much consequence not to insure a continuance of their efforts in every way which shall appear eligible."

President Madison's special message, May 23, 1809, says:

"It will be worthy, at the same time, of their just and provident care to make such further alterations in the laws as will more especially protect and foster the several branches of manufacture which have been recently instituted or extended by the laudable exertion of our citizens."

Thomas Jefferson, in a letter to Benjamin Austin, Boston, 1816, says:

"To be independent for the comforts of life we must fabricate them ourselves. We must now place our manufacturers by the side of the agriculturist. . . . Experience has taught me that manufactures are now as necessary to our independence as to our comfort."

President Monroe's first inaugural address, March 5, 1817, says:

"Our manufactures will likewise require the systematic and fostering care of the government. Possessing, as we do, all the raw materials, the fruit of our own soil and industry, we ought not to depend, in the degree we have done, on supplies from other countries. While we are thus dependent, the sudden event of war, unsought and unexpected, cannot fail to plunge us into the most serious difficulties."

President Jackson, August 26, 1824:

"Heaven smiled upon and gave us liberty and independence. The same Providence has blessed us with the means of national independence and national defence. If we omit or refuse to use the gifts which he has extended to us, we deserve not the continuance of his blessing. He has filled our mountains and our plains with minerals—with lead, iron, and copper—and given us a climate and soil for the grow-

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ing of hemp and wool. These being the great materials of our national defence, they ought to have extended to them adequate and fair protection, that our manufacturers and laborers may be placed in a fair competition with those of Europe, and that we may have within our country a supply of these leading and important articles so essential to war."

Such are the teachings of the fathers. Pages could be filled proving their passionate anxiety to establish manufactures by legislation, which Mr. Gladstone thinks partakes of an immoral character. I quote these memorable utterances to illustrate the difference between an old land which has the best-equipped system of manufactures ever known already in operation, and produces more manufactures than it can consume, and a new land which has no manufactures, but is desirous of obtaining them. How different the point of view from which the statesmen of the old and the new land must regard the policy of protection! How different the problem with which they have to deal! To place this difference in the clearest light, I quote Mr. Gladstone's presentation of free trade (pages 9 and 10, NORTH AMERICAN REVIEW for January):

"International commerce is based, not upon arbitrary or fanciful considerations, but upon the unequal distribution among men and regions of aptitudes to produce the several commodities which are necessary or useful for the sustenance, comfort, and advantage of human life.

"If every country produced all commodities with exactly the same degree of facility or cheapness, it would be contrary to common-sense to incur the charge of sending them from one country to another.

"But the inequalities are so great that (for example) region A can supply region B with many articles of food, and region B can in return supply region A with many articles of clothing, at such rates that, although in each case the charge of transmission has of necessity been added to the first cost, the respective articles can be sold after importation at a lower rate than if they were home-grown or home-manufactured in the one or the other country respectively."

The position of the new country desirous of industrial independence we will state in the words of an Englishman not unworthy to be classed as an economist with Mr. Gladstone himself —John Stuart Mill:*

"The superiority of one country over another, in a branch of production, often arises only from having begun it sooner. There may be no inherent advantage on one part or disadvantage on the other, but only a present superiority of acquired skill and experience. A country which has this skill and experience yet to acquire may, in other respects, be better adapted to the production than those which were earlier in the field; and, besides, it is a just remark that nothing has a greater tendency to promote improvements in any branch of production than its trial under a new set of conditions. But it cannot be expected that individuals should at their own risk, or, rather, to their certain loss, introduce a new manufacture and bear the burden of carrying it on until the producers have been educated up to the level of those

* "Political Economy," Vol. II., book v., chap. 10, section 1, pages 512, 513.



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with whom the processes are traditional. A protecting duty, continued for a reasonable time, will sometimes be the least inconvenient mode in which the nation can tax itself for the support of such an experiment."

Here we have the whole question in a nutshell. I have heard Mr. John Bright say that Mr. Mill, by this paragraph, had done more harm than all the remainder of his writings would ever do good. But Mr. Bright confounded effect with cause. Mr. Mill's paragraph in itself has done neither harm nor good. It simply records the practice of every new country that seeks to develop its latent manufacturing powers. Mr. Mill's words were, no doubt, surprising to Mr. Bright, and to Britons generally—perhaps to Mr. Gladstone himself. The new doctrine differed from the policy which, being desirable for Britain, Mr. Bright naturally thought of universal application and desirable for all. The statesmen of the United States, however, had discovered, acted upon, and demonstrated by unprecedented success the wisdom of Mr. Mill's words long before they were written. 'It may be noted, however, in passing, that the "immorality" of a new nation's endeavoring to develop her resources by protective duties had evidently not occurred to the philosopher.

The only question, then, in which the United States are interested is this: Given a world within itself, with every requisite for manufacturing the various commodities required by its people, was it wise to give the necessary concessions and bounties to induce skill and capital to establish manufactures within this world? and, if it were found that the easiest and surest mode of building up manufactures was by taxing the manufactures of other nations, so that the product of experimental factories in the undeveloped land should be shielded from the competition of fully-developed factories abroad, should this protection have been given or not, and should it be maintained as far as may be found necessary? How interesting it would be to have Mr. Gladstone's answer to this problem—the only one which our country has to consider.

Even should Mr. Gladstone hastily reply in the negative, it is probable that he would scarcely utter the word ere he paused and reconsidered. First he might say to himself: "This is a problem with which I have never had to deal. It is new to me. I must examine. I must think." Then it might occur to him that all of his countrymen who govern English-

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speaking people throughout the world have decided the question in the affirmative for their respective countries. The Gladstone of Canada, a thorough Scotchman like himself, Sir John Macdonald; the premiers of Australia, New Zealand, and every British colony; and, even in old Europe, Bismarck, and Tisza, and Carnot, and the Russian premier, all backed by public opinion, have been led to the conclusion that it is essential for their governments to levy protective duties in order to establish manufactures. It is significant that all these countries are desirous of developing manufactures to an extent sufficient to supply their wants at home; while Britain already manufactures more than she wants at home, and must send abroad. Perhaps this fact has, unconsciously, something to do with the differing views of those concerned. They look at it from opposite sides. All the civilized nations of the world answer this question in the affirmative, and confirm their opinion by their acts—if we except New South Wales, a pastoral land with slightly over one million of people, which is now about equally balanced upon the question in its legislature.

That thorough man of the world, Mr. Labouchère, has recently explained that the question of free trade or protection is one of condition; not a science applicable everywhere. It is good for some countries, bad for others. "As I am an Englishman," says he, "I am in favor of free trade; but if I were an American, I should be in favor of protection." Of course, it is quite possible that all these Britons abroad and all these countries may be wrong, and that the Briton who remains upon his little island, and has never seen a new country, and to whom the word PROTECTION means a tax upon a food supply which cannot be increased by protection, may be right. But, on the other hand, it is possible that all of these governing men and all these countries, having the advantage of intimate knowledge of the problem, may be right, and that it is the Briton in little manufacturing Britain who is in the position of the one stubborn man upon the jury.

At any rate, the policy of protecting manufactures in new countries, or wherever protection is necessary even in old countries, has in its support a consensus of the governing men and of the countries of the world. No statesman attaches more importance to such a consensus upon any question than Mr.

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Gladstone. Nothing is proved to him more clearly, nothing is urged by him more persistently upon his adversaries, for instance, than that for his policy of home rule he has with him a consensus of the civilized world, as evinced by their words. For the doctrine of protection we have better than words. We have the acts of every country. If it be contended that a new discovery or a great improvement always has the majority against it at the beginning, this is true; but let us note that, while the progress of a new truth or discovery may be slow at first, yet it is steady, and keeps on conquering by its inherent power. If free trade for the world had really been of universal application, and best for countries developed and undeveloped in manufacturing, it must inevitably have proved so ere now; at least, the doctrine would have held its own.

What is the situation to-day? So far from progressing, the cause of free trade has receded, and is now confined to the little island of Britain itself and New South Wales, with its pastoral land and one million inhabitants. A recent morning paper (April 22, 1890) announces, for instance, that Newfoundland has just increased its tariff upon foreign goods. Canada increased hers largely last year. We need not speak of Germany, France, Russia; these countries are constantly at work upon the task of shielding their industries. Even the strongest tariff-reform paper in the United States, the New York *Times*, of a late date (April 27), begins an editorial thus:

"All the signs point to the joining by France of the protectionist reaction that is now setting in over all Continental Europe. The Committee on the Budget of the new Chamber has been made up distinctly in the interest of the policy of terminating the treaties of commerce with foreign nations, and taxing food and raw materials. This will be a great experiment for France. Since 1860 her fiscal policy has been one of the widest reciprocity. Probably no other country has negotiated so many commercial treaties on a reciprocal basis."

And only the other day, as the cable informed us, Mr. Gladstone said to the Cobden Club that Free-Traders must recognize with keen disappointment how much ground had been lost by their doctrine within the last twenty-five years. Where has a great economical truth, a sound theory, ever lost ground once gained? The case against free trade as being of universal application is closed, for, after twenty-five years of struggle, it is to-day in full retreat all over the field. What is true never retreats. It holds the field against all comers.

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In this consensus of opinion in favor of protection all parties in America are agreed. President Cleveland's famous message, Mr. Breckinridge's article in the April number of THE REVIEW, every platform of the Democratic, as of the Republican, party, confirm this. Mr. Gladstone will find ten Britons favoring protection in Britain to one American in the United States favoring free trade. It is not a question whether the doctrine of protection to manufactures be upheld, but simply a question of how much, if any further, protection is necessary. Convince the American people to-day that it is necessary to increase the duties upon iron, or steel, or silk, or woollens, show them that the manufacture of these articles at home cannot be sustained in competition with Europe without additional duties, and the additional duties will be promptly levied. Mr. Breckinridge truly says (April NORTH AMERICAN REVIEW, page 506):

"Practically the present generation of statesmen will never meet the question of free trade. Whatever views may be entertained by those in public life or by the great body of the people, it cannot be that in our day free trade, even in the limited sense in which Great Britain has adopted it, can be made the system of the United States; . . . it is also freely admitted that it is impossible to 'raise the revenues' required by the United States under a system of tariff imposition without incidental protection to certain industries."

His position illustrates still further how little bearing Mr. Gladstone's article has upon the question of protection as it interests the United States.

Before leaving this part of the subject, permit me to consider another phase of it as presented by Mr. Gladstone. While it is quite true that protection has reduced the price of manufactured commodities to the consumer below what he would have had to pay if dependent upon the supplies of articles from abroad, there is, nevertheless, a vital part of the question of protection *versus* free trade which is not settled by the mere question of price. Presidents Monroe and Jackson touch upon it in their words already quoted. Even if Mr. Gladstone's contention were true, that region A could permanently supply certain articles cheaper than region B, it does not follow that it would not be wise for region B to incur the increased cost until the brotherhood of man comes upon earth; for to the statesmen charged with the safety and welfare of their country the danger of war must be ever present. Sad as is the thought, and

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repugnant as it is to our ideas, nevertheless statesmen are bound to deal with what is, not with what they wish to be. No nation acts upon this principle more consistently than Britain. She has just passed an act devoting a hundred millions of dollars to increase her already enormous navy. Why? Because, being unfortunately dependent upon foreign nations for a supply of food, she must perforce so legislate that her ports cannot be closed by hostile fleets. Mr. Goschen, the Chancellor of the Exchequer, has just said that no nation ever existed to which absolute security was so essential. As the price of her existence she must keep command of the seas. Convinced of the necessity of this, were I in public life in England,—vice-president of the Arbitration Society as I am,—I should, nevertheless, be compelled to support any measures necessary to secure this end.

Applying this principle to the United States, it will be within Mr. Gladstone's recollection that not so long ago we were engaged in a deadly struggle for the preservation of the Union. In what condition did the country find itself then? Without the ability to supply clothing, arms, or ammunition for her troops. Iron and steel for railways and locomotives—articles almost as essential for subduing the Rebellion as any of those named—could not be procured at home. Agents were despatched to Britain and the Continent; and it was only by drawing from foreign countries that the Republic was able to triumph. If Mr. Marcellus Hartly, or Mr. Gilead A. Smith, or any of the other agents with whose experience I am familiar, could be induced to write the story of these negotiations and purchases, it would be most interesting reading indeed for every American. Think of the danger with which this country was confronted at that awful moment. When its agents were making these very purchases, the government of Britain was on the eve of entering the struggle against the Republic; and was only prevented from doing so by the unceasing efforts of Mr. Bright, Mr. Foster, Mr. Morley, Mr. Goldwin Smith, and other leaders of the people, as distinguished from the governing class, which was anxious then, as it is anxious now, and ever will be anxious, to strangle a republic which daily proves MONARCHY and ARISTOCRACY to be excrescences upon the body politic.

If I read aright the temper of the American people, they will never again consent to be subjected to dependence upon any

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other power than themselves for all the means necessary to deal with either foreign or domestic trouble. It is significant that legislation for increasing the military and naval strength of the country invariably requires all the necessary material to be made within its own territory. No Free-Trader—not one—votes against this highly protective—nay, prohibitive—policy. The requirement passes unanimously in every case. Why do not Mr. Mills and Mr. Breckinridge vote upon such occasions in favor of buying where they can buy cheapest? Because they realize that in certain contingencies the safety of their country depends upon its being prepared to supply all from within itself. This necessity is somewhat less obvious in the case of clothing for troops, and still less so, perhaps, in regard to a prompt and full supply of steel in the cruder forms. Yet the enormous supplies of steel and iron which the Baldwins and other locomotive manufacturers obtained in Britain during the Rebellion contributed largely to the suppression of the Civil War. It could scarcely have been suppressed without a rapid development of our railway facilities; and this required steel and iron far beyond the capacity of the country then to produce. Even when aiding railways, the government invariably enacts that no foreign material shall be used in their construction.

To this policy England also strictly conforms. Mr. Blaine has shown that, in the case of steamship lines, she will permit no foreign steamships to compete even for carrying the mails. On the contrary, when the Postmaster-General of England had closed an arrangement with the North-German Lloyd, which gave much better service upon more favorable terms than the English steamship lines had it in their power to give, Parliament promptly compelled him to forego the arrangement. The people of England would not stand it. Take the recent test of armor-plate at Portsmouth. While the form of asking foreign manufacturers to submit trial plates was observed, the foreigners very properly answered: "We will do so, if you agree to give us the contract should our plates prove superior to the British, and if we agree to furnish them upon equal or better terms." The British government declined to do this, and therefore not a foreign manufacturer sent a plate for trial. I do not mention this protective action to dispute its wisdom; on the contrary, I should not consider any party in Britain or in the United States fit

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to be intrusted with government which did not look to it that every pound of steel and every rivet in its war-ships were made at home.

If the present British government should accept armor-plate from a foreign nation for one ship, Mr. Gladstone would be in power within twenty-four hours. It would do more to dissolve the present coalition than all the speeches of my friends of the Liberal party, and more than all the by-elections in favor of the principle of home rule. Devoted to free trade as England pretends to be, no ministry dare give the patronage of the government to foreign steamships, or use for a single ship armor-plate which Britain itself does not furnish. My native land is given to preaching a good deal to less civilized lands, but when it comes to practice, her practical instincts may be safely trusted. The Briton has not lost his common-sense. There is, therefore, a large domain, the most vital of all, in which the question of dollars and cents does not enter. Mr. Gladstone's region A may offer any terms it pleases, but region B (Britain) and region U (the United States) will continue to supply their own arms, their own steel, their own armor-plates, their own guns, and their own ships, free-trade preaching to the contrary notwithstanding. In region U practice and theory agree. To region B we pay the rare compliment of saying that its practice is better than its theory. It preaches free trade, but practises protection. In everything, therefore, that is seen to affect the safety of a nation, —and more manufactured articles contribute to a nation's safety than might at first appear,—proof that region A could supply region B cheaper than region B could itself provide the necessary articles would have no bearing whatever upon the subject. One might as well prove that all flesh is grass.

Is it not significant that at this very moment the gravest danger to the peace of this continent arises from the refusal of Britain to arbitrate the difference which she has with our sister-republic, Venezuela? That any power will ever undertake to light the torch of war upon this continent, in the face of the recent action of the seventeen republics which occupy it, I do not believe. The attitude of England to-day, however, upon this question, and also in regard to the enormous increase of her naval power, deserves to be carefully weighed by every citizen of this continent; and here every

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American will be glad to pay Mr. Gladstone the deserved tribute of saying that were he in power as the representative of the democracy, instead of the Marquis of Salisbury as the representative of the aristocracy, the offer of any power with which Britain has a difference to submit the question to peaceful arbitration would not be rudely repelled. The grandest work among many grand works in Mr. Gladstone's career is the settlement of the "Alabama" difficulty by peaceful arbitration. If he never did anything else, if he never does anything else,—which God forbid!—he will still for this work have earned an enduring place among the benefactors of mankind. Indeed, Mr. Gladstone is so grand a character and has a mind so open to the reception of new ideas that I entertain not the slightest doubt that, were he to spend a few weeks in this new country, he would recognize that his friend, John Stuart Mill, in the passage I have quoted, had rightly discerned the necessity for protecting new manufactures, and that all his fellow-countrymen intrusted with the government of English countries beyond the limit of his island are not wrong. He is right upon the question for Britain, and acquaintance with our different conditions would make him right upon it here.

To return to the main question. It may be assumed that all parties in this country desire the United States to continue as she is—the greatest manufacturing nation in the world; and also that there is no objection to Colonel Breckinridge's position, that its manufacturers must necessarily continue to receive incidental protection. The practical question, therefore, resolves itself to this: Has the infantile stage of our manufacturing system passed? Has it reached the full stature of maturity? Are we prepared to let down the bars and stand exposed against foreign manufacturers? These are legitimate questions. To the college professor and the student in his closet it may well appear that a nation which manufactures more tons of steel than Great Britain and almost as much pig-iron, and which furnishes so great a proportion of the woollens, silks, and cottons consumed by it, has outgrown the necessity for further protection. One can quite understand that this should appear reasonable. Let us consider it.

It is thirty years since the Civil War rendered it necessary greatly to increase duties upon imports. Up to that time and during the struggle, as I have shown, the country was dangerously depend-

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ent upon foreign supplies for articles essential to its preservation. This is a fast country, and we expect much to be accomplished in thirty years; and we ask if this long period is not quite sufficient to develop manufactures to their utmost possible efficiency. Is it an easy matter, then, to introduce and establish in a new country an important branch of industry? What has been our experience? We will take the vital article of steel. When the duty upon steel was raised to a point which tempted capital to engage in the experiment of making crucible steel in this country, Mr. James Park, of Pittsburg, became the pioneer in the experiment. His repeated trips to Europe to secure skilled workmen, the enormous prices which he had to pay to induce them to leave their homes, and the grave financial and other difficulties which he encountered and surmounted, render the life of this man memorable. Even after he had succeeded in making good steel, it was years before he could induce consumers to fairly try the home-made article.

The effort to introduce Bessemer steel in the United States is nothing but a record of disaster for many years. The first attempt at Milwaukee ruined the pioneers. The works at Troy were sold for not many more hundreds of thousands of dollars than millions had been spent upon them. The Freedom Iron Company, of Pennsylvania, bankrupted itself in trying to introduce the process. The Vulcan steel-rail mills, at St. Louis, were twice sold by the sheriff. The steel-rail works at Joliet were also sold by the same official. The Pennsylvania Steel Company became embarrassed, but fortunately received aid to the extent of $600,000 from the Pennsylvania Railroad Company. Even the great Bethlehem Steel Company had to mortgage its plant. These efforts began in 1860, and all took place previous to the year 1873. It was not until that year that there was made as much as one hundred thousand tons of steel in all this country. Up to 1881 there never was a year during which the United States made a million tons. In that year the industry can be said to have taken firm root. The Bessemer-steel manufacture was, therefore, successfully introduced only after many years of effort and after millions of dollars had been lost. Now, this was only nine years ago. How has the rate of duty kept pace with this development? By successive reductions 40 per cent. of that upon rails has already been taken off, and the bill now pending

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in Congress fixes the future duty at something less than one-half of the original duty imposed. Thus do we march through temporary shielding and protective care to such development as enables duties to be lessened from time to time.

Let us take another instance,—a very important one,—that of plate glass, in which the nation has made its most triumphant industrial success in recent years. It is twenty-one years since its manufacture was begun upon a small scale in this country. In New Albany, Ind., several hundreds of thousands of dollars were sunk in the experiment, which failed. A second attempt at Crystal City, Mo., ended in a final sale of the plant to St. Louis capitalists. Works were built in Louisville, Ky., in 1872, and in Jefferson, Ind., in 1875, but both proved failures financially. During all these years, from 1869 to 1875, there was nothing but failure for the pioneers, although glass then sold as high as $2.50 per square foot. A reduction of the tariff upon plate glass at this point must have indefinitely postponed future attempts. Fortunately, the tariff was not disturbed. The price still seemed tempting, and in 1882, ten years after the first trial, the Pittsburg Plate-Glass Works were erected. Success came at last. It is only through such struggles as these that a new branch of manufacturing is successfully established in a new country. To-day there are eight companies making plate glass in the United States, and the total production of last year amounted to something over nine millions of square feet. The importations were nearly six millions of square feet in 1888. Thus protection in America means something quite different from protection in Britain. So far from the manufactures of plate-glass being a monopoly, as the growing of cereals was under English protection, overproduction is threatened here, as in every branch of manufacturing. Seven new works are being built with great rapidity. When finished, America will be able to supply fifteen millions of square feet of glass per annum. The price last year fell in extreme cases to fifty-nine cents per foot. This was an article which, as has been seen, cost $2.50 before the United States entered the field. Protection has about done its work as far as large plates are concerned, the duty upon which could already be safely reduced.

Our friends who cry out that the manufacturing system of America has been fostered long enough should never forget that the struggle which the American manufacturer has in competi-

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tion with Europe is severe. His labor-cost is more than double that of his competitor. Mr. Clark and Mr. Coats, manufacturers of thread, have factories of similar character in the old land and in the new. They have both testified that their labor-cost in Newark and in Rhode Island is slightly more than double what it is abroad.

The following statement was laid before Congress recently by the United States Commissioner of Labor, and as it gives the wages in a branch which has not yet been quoted, and which is in nowise affected by the tariff, it is well worthy of reproduction here. It "presents a table giving the average daily rates of pay and the yearly earnings for such railroad employees in Great Britain and the United States as are amenable to comparison," as follows:

| Class of Employees. | Great Britain. | United States. |
|---|---|---|
| Engineers, per day | $1.46 | $3.22 |
| Firemen " " | 0.91 | 1.79½ |
| Conductors " " | 0.97 | 2.63 |
| Switchmen " " | 0.85 | 1.50½ |
| Flagmen " " | 0.81 | 1.13 |
| Engineers' yearly earnings | 457.00 | 1,007.00 |
| Firemen's yearly earnings | 285.00 | 562.00 |
| Conductors' yearly earnings | 304.00 | 824.00 |
| Switchmen's yearly earnings | 266.00 | 471 00 |
| Flagmen's yearly earnings | 254.00 | 354.00 |

It is probable, and greatly to be hoped, that this great difference will be equalized by an advance in the wages of labor in Europe, and not by a reduction in the wages here. But the manufacturing system of America may be considered as not having fully outrun the necessity for protection so long as it is handicapped in the race with double labor-cost. Notwithstanding this, it is marching slowly but surely to a condition in which it will, with only incidental protection, have nothing to fear, even in competition with its most formidable rival.

We have seen that the introduction of a new manufacturing industry is no child's play. It means ten to fifteen years of struggle and loss. It may be estimated, therefore, that one-half the period since the protective duties were imposed at the beginning of the war has been consumed in establishing the new industries. During the remaining half some industries have reached a position in which less protection is now necessary; some will soon be able to stand exposure to the competition of older countries.

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Other branches still require fostering care, and the only question for the legislator is, after examination and proof adduced, to determine how much, if at all, in each industry the import duties may be lessened, and whether, owing to errors in laws or in the construction thereof, changes in the other direction may be necessary.

Mr. Mills realizes that, if Mr. Blaine be correct in his claim that the steady competition of American manufacturers has reduced the price of manufactured articles, his case is desperate; therefore, in regard to steel rails, which were cited to prove this, he boldly says: "What competition was there among American manufacturers? It was a monopoly. The manufacturers owned a patent, and there could be no competition." Unfortunately for Mr. Mills, this is not correct. American Bessemer-steel manufacturers never owned the Bessemer patents. The courts of the United States adjudged Mr. Kelley, an American citizen, to have valid claims, even against Bessemer. And the persons interested in the Kelley claims settled with their English friends, and thus obtained control of the Bessemer process for the United States. They threw open the use of the patents to every individual in the United States, charging all alike one dollar per ton, and this all manufacturers paid. There always has been, and there is to-day, the most active competition between the manufacturers of steel. In seasons of great depression an inexperienced individual here and there has thought it possible that ruinous competition could be prevented; but it has been found impossible, and it always will be impossible until human nature changes. The American consumer has no cause to fear that any combinations among manufacturers can endure, for such never have endured either in Britain or elsewhere. Four pounds of steel in the form of a rail for five cents is conclusive proof that the severest home competition exists.

The statement is often made that, if we did not buy from foreign nations, we could not sell to them, and that the prosperity of our country greatly depends upon its exchanging products with other nations. I desire to meet this contention. Mr. Breckinridge says:

"A nation, like a man, can only grow rich by producing more than it uses, and accumulating year by year the value of that yearly surplus. If, also, there had been subtracted from the wealth of America all imports which were purchased by the agricultural surplus sent abroad, our industrial interests would be destroyed. There

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can be no greater delusion than that of a possible 'home market' in which everything produced in America is sold and in which everything needed for America is produced here and sold here. The very existence of our industries depends upon commerce—that is, upon the power to import what we need and to pay for it by what we export; what we export being that surplus of our product which remains after our wants are supplied. He who buys must first have something to sell, and sell it; and his capacity to buy is precisely measured by what he obtains for that which he sells."

Mr. Mills says :

"There can be no surer test of the prosperity of a country than the increase of its foreign trade, and no surer test of the retardation of that prosperity than the decrease of that trade."

The first lines of Mr. Breckinridge's statement are true. A nation, like a man, can only grow rich by producing more than it uses, and accumulating year by year the value of that surplus. But when Messrs. Breckinridge and Mills go on to assume that the yearly surplus made in the United States depends upon or is measured by the amount of foreign commerce, they run foul of figures. The estimated yearly increase of the wealth of the United States, in 1880, was $1,050,000,000 ; it is now not less than $1,400,000,000. The total value of all articles imported and exported averages only this sum, $1,400,000,000, per year. If we estimate the profit of the business at 10 per cent. upon the total value of the articles exchanged, we have $140,000,000 profit from foreign commerce ; and as the foreigner takes his half of the profit, the United States are left with an estimated profit yearly of $70,000,000 properly to be credited to this exchange.

It is clear that, if the United States buy abroad to provide for their wants to the full value of what they sell abroad, no surplus remains to be added to the national wealth beyond the usual profit, for the articles imported are substantially articles for consumption, and are all consumed, with the exception of a trifling amount invested in works of art and other permanent treasures. It is only the surplus of our sales over our purchases abroad that augments the national wealth beyond the $70,000,000 annual profit from the business, and this has only amounted to an average of $63,000,000 during the last six years, the period embraced in Colonel Breckinridge's statement. In 1888 the balance was only twenty-seven millions of dollars. Nevertheless, no country has ever added so rapidly to its national wealth as the United States during those years, but the "surplus" is not to be found in what this country sells and buys abroad, but in every mile of railroad, every house built, every animal added to our flocks and herds, and every acre

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reclaimed here at home. In the development of her own territory and its contents, the United States invests her yearly surplus of fourteen hundred millions of dollars. I say only fourteen because I wish always to understate, though quite aware that the experts expect the forthcoming census to show that in the decade from 1880 to 1890 not less than $1,900,000,000 was added yearly to the national wealth, and that now its augmentation is at the rate of two thousand millions per annum. What becomes of foreign commerce in the face of figures like these? If it were all profit, if every article we sent abroad cost nothing and every article obtained abroad were presented to us gratis, the total value would not be as great as the annual increase of the nation's wealth. Thus if we neither imported nor exported a dollar's worth, losing thereby a market for 4 per cent. of our products, this loss would only equal one year's gain.

I take issue with Colonel Breckinridge when he says that there "can be no greater delusion than that of a possible home market in which everything produced in America is sold, and in which everything needed for America is purchased here and sold here." I think that, instead of this being a delusion, it is sober truth; and, as far as the production of articles goes, we seem to have the gallant Colonel with us, for he says, quoting from Senator Morrill's able essay, that "the Senator admits" that we are able "to make an article 'superior to and cheaper than similar articles produced abroad.' . . . We agree with the Senator that we are capable of accomplishing this result. We have no doubt that, by removing the trammels upon the introduction of the foreign material needed, giving at once to the American workman equal advantages with his foreign competitor, *this could be said of all American manufacturers.*" We ask the Colonel, If this be true, what would become of our sacred foreign commerce as far as the purchase of manufactures abroad is concerned? And if the foreigner cannot buy our products unless we buy his manufactures, what would become of the other half of this foreign business which is said to be vital to our prosperity? Our free-trade economists would naturally predict that the Republic in that case must go to ruin; but no—it would simply make up the small percentage lost in one year's increase of its enormous domestic operations.

Will Colonel Breckinridge kindly look over the list of articles imported, and specify what cannot ultimately be made here? I

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have done so, and with the exception of a very few trifling articles, which fancy and sentiment will always induce rich people to select, even if similar articles could be obtained at home, I know of nothing important. Can any one name one necessary of life, for instance, which the United States is not producing? We have seen that the amount that the country buys and sells from abroad is lessening every year in proportion to the amount supplied at home. As the Colonel says (page 526), only 5 per cent. of our products went abroad (census of 1880); now less than 4 per cent. What point in the descending scale would the Colonel fix as that where the descent should stop? If at 3 per cent., 1900 would surely show him to be wrong. If at 2 per cent., 1910 would disprove his claims to the gift of prophecy.

Then again, the population of the United States is increasing at the rate of nearly two millions per annum. If it continues to increase with even a little less rapidity than its normal rate, there are persons now living who will see the population under the Stars and Stripes more than 500 millions. The country will then probably require its food supply for its own people. If not then, it is at least certain that the population will increase here until it requires all the product of the soil. Colonel Breckinridge, in my opinion, does not realize the unique position of his country. It is, indeed, as Mr. Gladstone says, a world within itself; and nothing is surer than that in the near future it will play the part of a world, consume its own products, and supply its own manufactured articles. Even if every port of the United States were blockaded to-day, and remained so for ten years, the people of the United States would suffer only some inconveniences and disturbance of values. The products of the soil would be cheaper for a time, until the population increased enough to absorb the paltry 4 per cent. of them taken by the foreigner. The entire manufacturing interests of the country, on the other hand, would be increased. There would be abundance of food, clothing, and shelter. Sugar, tea, and coffee would be scarce and dear, but a good deal would evade any possible blockade. Many new and important sources of national wealth would be discovered, and substitutes provided for such things as we now import, to an extent which would surprise the world. And the country would emerge at the end of the embargo more self-contained, more powerful, richer, and more independent of other

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nations than she is to-day. So far have our manufacturing industries developed; so far have we travelled upon the path which is making the United States in reality a world within itself.

No one desires the closing of our ports: the country is prospering too well to welcome any change; but it is well for us to know, and for other nations to understand, that it would only be disturbing and inconvenient, not serious, nor in any way dangerous to the life and prosperity of this world within itself. The outside world will do well to note that the assailant who blockades the ports of the United States will suffer ten-fold more by the operation than the Republic.

It may be doubted if a more erroneous statement was ever made than that for which Mr. Mills makes himself responsible when he says that there can be no surer test of the retardation of national prosperity than the decrease of foreign trade. Let us consider the situation. Foreign commerce is decreasing. The United States are more and more supplying their own wants, and importing relatively less from other countries. They are also consuming a larger portion of their own products, and exporting relatively less to other countries. Foreign commerce reached the highest mark in 1880, 1881, 1882, and 1883, averaging for those years $1,500,000,000 per annum. It has not reached that figure since, the average per annum since then being about $100,000,000 less. In 1888 it was $1,418,000,000.* If the gauge of the country's prosperity be the condition of its foreign commerce, as Mr. Mills asserts, one trembles for the forthcoming census when Mr. Mills next ventures to lift his powerful pen in support of his theory, for the census is to assert that during the ten years under consideration, when foreign commerce actually declined, no nation ever made wealth so fast. One wonders how Mr. Mills will reconcile this fact with his theory.

Great Britain is usually cited, and very justly so, by our Tariff-Reformers as wondrously prosperous. Next to the United States she is gaining fastest in wealth. How does Mr. Mills's theory work when applied to her? The foreign commerce of that great little giant for the decade 1878 to 1887, inclusive, did not increase, but it has actually decreased since 1880. The total was in that year £697,000,000; in 1881, £694,000,000; in 1882 it reached £719,000,000, and in 1883, £732,000,000, which is the

* American Almanac, 1889, page 72.



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highest mark. In every year since, the foreign commerce of Britain has fallen, until in 1887, the last year given, £642,000,000* was the total. Thus the foreign commerce of both the great English-speaking lands has declined during years when the population and wealth of both have increased apace. The fact is that even in the case of Great Britain, the country which exports and imports most, and to which foreign commerce, therefore, is far more important than to any other country, it is not the chief cause of prosperity or of the increase of national wealth.

It is high time that this little braggart, foreign commerce, should be exposed and dethroned. Our exports only amount to 4 per cent. of our products, and yet make more noise than the 96 per cent. which does its far more valuable work quietly at home. If, therefore, the United States produced next year only what they produce this year, the year after next, according to the census, would find the total loss of foreign sales fully made up by increased consumption at home. Allowing for the temporary disturbance that would arise, it is safe to say that a very few years would restore the loss, so rapidly is our country increasing.

Mr. Mills represents a cotton-growing State. By taking cotton as an illustration, I can, perhaps, best enable him to understand why the reverse of his proposition is true; why the genuine prosperity of the United States requires that its foreign commerce shall year by year fall away, as compared with its home commerce, until it fades into insignificance. Even the puny 4 per cent. of the country's total commerce which our exports now represent—leaving, as Colonel Breckinridge says (page 526), unhampered 96 per cent. of our products for consumption at home—will be considered enormous when the census of 1890 is taken. Here is the reason: In 1830 the United States consumed only 52,000,000 pounds of cotton grown here. In 1880 they consumed 962,000,000 pounds. In 1830 the great crop of the South went to the foreigner, to swell the records of foreign commerce. Now, when we manufacture at home more of the cotton we grow, the credit is transferred from foreign commerce to domestic commerce. One gains; the other loses. It is precisely the same with all exports of grain, provisions, petroleum, and other articles, and with all imports of iron, woollen goods, plate glass, and manufactures in general. The true test of the pros-

* Statesman's Year-Book, 1888, page 269.

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perity of this country is to be found in the increase of its domestic commerce, and the relative decline of its foreign commerce.

Now let me point out the difference between the two. All exchange is a matter of profit between the two parties thereto. If the manufacturer of New England send his product to Texas, and receive in return the product of Texas, what happens? The Texan is benefited, and the New-Englander is benefited likewise. They share all the profits of the transaction between them. If the Texan send his product to Britain, and receive in return the product of Britain, what happens? The Texan and the Briton are benefited. In the former case all the profit goes to ourselves—Americans; and in the latter case our people and our country receive only half the profit. The one transaction is as clearly commerce as the other: commodities are exchanged.

When Mr. Mills would measure the wealth and prosperity of his country, he must seek causes much more potent than its foreign commerce. The manufacturing development of the South, for instance, is a much greater factor in the creation of national wealth, which now reaches about $2,000,000,000 per annum. The exchange of commodities with the foreigner, which we dignify by the name of foreign commerce, and which does not to-day amount to 4 per cent. of our total products, is much too small a tail to wag so big a dog.

Figures are such strange things! When Colonel Breckinridge says (page 521, NORTH AMERICAN REVIEW) that "from January 1, 1884, to January 1, 1890, we exported of domestic products the enormous sum of $4,304,086,830," it no doubt seemed to him he had said something most impressive. Seven hundred millions per year! But when one whispers to him that the value of our home manufactures *every year* is more than $7,000,000,000, how foreign commerce shrivels! The best way to measure a pigmy is to put a real giant alongside. Exports are one foot high and home manufactures ten.

It is urged that, unless we buy the products of Britain, she cannot buy ours. Let us consider this contention, and see whether nations buy and sell with each other to an equal extent, or if what one buys influences what the other sells. Britain buys every year about $100,000,000 more from us than we from her, while we buy every year about $100,000,000 more from South American countries than we sell them. British North America sends to Britain 30 per

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cent. more than she buys from her, the figures for 1886 being: exports, £10,000,415; purchases, £7,000,880. Ceylon has never bought from Britain much more than a quarter of what she sells her, the figures for 1886 being: exports, £2,083,636; purchases, £582,800. The Argentine Republic, being, like the United States, a growing country, only sells to Britain £1,646,000 per year; she buys from her £5,190,000—more than three times as much as she sells. British Guiana is in the same condition. She always sends to Britain nearly three times what she buys from her, the figures for 1886 being £1,383,379 exports, and £582,880 imports.

What is to prevent Britain from paying us every year if we did not take one dollar's worth of her products in return? or the United States, out of their enormous accumulation of wealth every year, from buying more from South America than they sell to it? It is said that, if one country imports more from another, it must sell more than it imports to some other. This is not necessarily true, because it can draw upon its annual increase of wealth to make good its greater purchases, just as Britain does, which has a balance against her every year of about five hundred millions of dollars; but even if it were true, what bearing would it have upon the question whether Great Britain and other countries would not continue to buy the petroleum, cotton, grain, and provisions of the United States as long as the United States could furnish these articles to the advantage of the buyer, as she does now? The merchants who buy cotton or provisions upon the Liverpool exchange are not the same merchants who sell the woollens and iron and steel of Britain. They scarcely know each other, and are totally ignorant of each others' transactions. The one does not care where or from whom the other buys. It is a simple question where they can buy or where they can sell to the best advantage. The merchant in Liverpool buying our products does not care whether the manufacturer of Manchester sells a pound of goods to the United States or not. As Major McKinley well says (NORTH AMERICAN REVIEW for June, page 747), free trade would not increase the sale of our products abroad. Other countries buy of us what they need—no more, no less. Britain sends to the United States only from 150 to 180 millions of dollars' worth of goods per annum. Suppose she did not send one dollar's worth. The world grows so rapidly that the void would soon be

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filled. She has only to cease expanding for a short season and her other customers would absorb her present production. Her American trade only amounts to about 10 per cent. of her total exports, and this could be easily made up. As for Britain not being able to pay for what she buys unless we take her products in return, what becomes of that contention when Mr. Giffen has just proved* that the annual increase of Britain's wealth exceeds $900,000,000? A nation with a net income like that is able to buy largely and is good for all she will buy.

It is said that, if free trade were adopted, so enormous would be the demands thrown by the United States upon European manufacturers that prices would advance to such a point as to enable American manufacturers to continue operating their works. If this be correct, let me ask what benefit would ensue to the American consumer? If the only result of a change of policy be that matters shall remain as they are as to prices, I submit that change in itself in our fiscal policy is a serious obstacle to prosperity. To justify change we should have decided advantages in view. It is, of course, a matter of opinion how far increased demand upon European resources would enhance prices. It would do so temporarily without question; but Europe hitherto has been able to respond to all demands made upon it by the world, and I believe such will be the case in the future. We are probably soon to see iron and steel in Britain as low as they ever have been. I know of no reason why the textile manufactures of Europe cannot be doubled or trebled. The belief referred to is, in my opinion, without foundation; but, assuming that it proved true, the foreign manufacturers would then run to their fullest capacity, and the American only be called upon furtively to make what his British competitor could not. He would cease to be the principal factor in supplying his own market, and be relegated to the position of humbly taking the crumbs which fell from the table of the foreigner, while the consumer would receive no advantage whatever. So that, if the theory be true that free trade here would cause prices to rise in Europe, this country would gain nothing; and if it proved unsound, the whole manufacturing system of America would be demoralized. Is it worth while for the United States to play with the foreigner the game of "heads you win and tails we lose"?

* Speech of Robert Giffen, British Board of Trade, at Leeds, February, 1890.

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We have not yet noticed the charge that protection is artificial. Mr. Gladstone holds that all interference by the government in order to encourage a dearer method at home, in preference to a cheaper production abroad, may naturally be termed artificial. Those in favor of establishing new manufactures in a new country believe that eventually the price of articles produced will not only be less than the consumer would have to pay if his country did not produce these articles and he were dependent upon a foreign power for his supply, but that he will have a surer source of supply; that there are great incidental advantages in bringing the manufacturer and the consumer in close proximity. Freight can be saved, which augments profits; delivery can be hastened, mistakes corrected, and important consultations had between parties—an impossibility if they were thousands of miles apart.

We gladly admit the charge, however, that protection is entirely artificial—not less so than the protection given by the market-gardener to his young plants, which he covers with a sunshade through the day, and over which he thoughtfully throws a straw mat at night; as artificial as the frame in which the fond mother teaches her infant to walk, and not less so than the aid given by Mr. Gladstone to the young tree which he plants in Hawarden grounds, binding it to the artificial stake that he drives beside it, that the sapling may grow to a stately tree. What is there of man's triumphs in any branch of his activity that is not artificial? When applied as Mr. Gladstone applies it here, it seems to mean no more than cultivation when applied to the soil, and the United States have proved not only that the soil must be cultivated to produce agricultural products, but that a nation, as sagaciously understood by John Stuart Mill, can "cultivate" the production of many of the principal articles which are almost as essential to its rank, power, and prosperity as food itself. The Protectionist pleads guilty to the charge, and awaits sentence.

There remains the charge of monopoly. As I have explained, the only protection known to Mr. Gladstone constituted a monopoly. He has no experience of any other. He is to be excused. But what shall be said of Messrs. Mills and Breckinridge? What would Mr. Gladstone say to these gentlemen if they told him of a monopoly into which every dollar of the capital of the world is free to enter? —a monopoly in which many of the leading manufacturers of Mr.

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Gladstone's country are busily engaged—the Clarks and the Coatses, of Paisley; the Nairns, of Kirkcaldy; the Salts, of Saltaire; the Sandersons, of Sheffield; the Kerrs, of Glasgow; the Barbours, of Belfast, and scores of others; a monopoly free to all, without regard to citizenship or residence; a monopoly to which there is no limit; a monopoly in which one hundred and forty-seven new and important competing manufacturing establishments are under construction to-day in one section alone, that of the South, so ably represented by these writers!

My capital is wholly invested in manufacturing, and if there be any monopoly in the entire domain, I should like to discover it. If unusual profits are being made in any branch of manufacturing, why do not Mr. Mills and those who think with him invest and share these grand returns, and by so doing strike down the "monopoly"? There is no branch of manufacturing into which they cannot put $100 or $100,000; the shares of silk and glass and wool and iron and steel concerns are freely bought and sold in the open market. Those who believe that any industry gives its owners great profits have only to select the industry and invest. Into the woollen industry, for instance, investors to-day can enter for much less than its present owners did. In that of glass splendid opportunities for investment are surely at hand. In the iron and steel branch, with which I am familiar, any citizen of the United States who has $100 can become part owner to-morrow; he can purchase the shares of almost all the steel concerns at much less than the capital actually invested. The shares of the Illinois Steel Company, the Bethlehem Company, Pennsylvania Steel Company, the Cambria Company, the Troy Company, as a rule, do not command in the market the actual number of dollars invested. But I must not be understood as advising any one to invest too largely upon the theory that the returns will meet his expectations. The charge that manufactures in America are monopolies is without foundation, although it may still pass current in a rural community when delivered from the stump in Texas. I should like to be present to see Mr. Gladstone's expressive face, and hear his response, if these gentlemen ever spoke to him of "a monopoly free to all." That word "monopoly" will do service no longer; our friends had better try Mrs. Malaprop's famous "allegory" at once. It would apply just as well, and have the advantage of being new.

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Mr. Gladstone says that, when the United States get rid of the "barbarism" of protection, we shall get a copyright law. It is to be regretted that this most desirable result received such a blow at the moment when a copyright bill was pending. Mr. Gladstone will never get a copyright law in this country except through those who believe in protecting home industries. Strange as it may appear to him, the leaders of the Republican party are its strenuous advocates, and only that party can boast that a majority of its Representatives in Congress voted for the measure. The only protection of which Mr. Gladstone has had experience, however, was barbaric, just as it was monopolistic. But protection as we have it is a "barbarism" indulged in by every nation, and to some extent, as we have seen, by the nation of the statesman who uses the word and by all the component parts of that great empire itself, except one trifling dependency. The "barbarism" of France, the "barbarism" of Germany, the "barbarism" of the United States, the "barbarism" of Canada and Australia, the "barbarism" of all the civilized world, Britain alone excepted! Ah, well! I remember it was my fellow-countryman, as Mr. Gladstone is, who prayed, "O Lord, gie us a gude conceit o' oorsel!"

While believing in the wisdom of the policy which has been pursued by the United States for the past thirty years as being the policy best for her, I do not assume that the other nations and colonies of the world which are following our example are wise in so doing. This is a matter to be determined each for itself by a very careful study of its latent powers and possibilities and by judicious experiment. No stranger can be sufficiently acquainted with these countries to venture an intelligent opinion. An impression I have, however, that some of them, unfortunately, can never be made great nations — much less worlds within themselves — by any system of protection or by any effort. The protection offered may not induce capital to enter the manufacturing field. Their experience as to manufactures in general may be ours regarding sugar, or what it would be if we attempted to supply ourselves, as Mr. Gladstone suggests, with pineapples. It takes a world within itself to become independent of the outside world as to those articles which are essential to give it rank as the foremost power of the world. That free trade is not only one of the best policies, but the only policy possible for Britain, seems to me

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indisputable. It may be, and probably is, the best policy for several of the new countries, for it is folly to protect unless the fruits of protection can be gathered.

Now, I believe, every point brought forward by our free-trade friends has been considered: First, the policy of protection in itself; second, that the infantile stage has passed; third, that if we do not buy from abroad, foreign nations cannot purchase from us; fourth, that our nation's prosperity and wealth are to be best gauged by the extent of its dealings with other countries; fifth, that protection creates monopolies. There remains now only to point out what seems the course of wisdom in the present position of affairs.

As stated by Colonel Breckinridge, it is not practicable to raise the necessary revenues for the general government without giving incidental protection to manufactures. If sugar be made free, as is probable, and the whiskey tax considered a fund from which pensions are to be paid, sufficient duties must be levied upon imports to give all the protection that is now necessary to maintain and develop our manufacturing industries. It is only a question how these duties can be most judiciously imposed; and here the legislator has a sure rule for his guidance. From it he need not be swayed, either to the right or to the left.

Let me illustrate. The principal articles protected are woollens, cotton, silks, and iron and steel. In 1880 our imports of woollens amounted to $33,911,000; in 1888 to $63,612,000. The natural comment is that there is something wrong here. The foreigner is gaining too fast. He has nearly doubled his business with us during eight years. We have not far to seek for the reason. By making the law express clearly what was meant by its framers, the McKinley Bill just passed by the House will restore to the American manufacturer that of which it was never intended to deprive him. Our cotton imports in 1880 were $29,929,000; in 1888, $28,917,000. The comment here is that the American manufacturer is holding his own, and obtaining the increase of business. Speaking generally, duties upon cotton should remain as they are, change in some details perhaps being required. The imports of silk in 1880 were $44,213,000; in 1888, $41,287,000. Here it is much as with cottons; the American manufacturer is not being driven out of his market, but is holding his own. Of iron and steel in 1880 the imports were $53,714,000; in 1888, $48,992,000.

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These figures prove that the American manufacturer is gaining in some branches upon his foreign competitor, and upon the articles which show decreased imports duties may be safely reduced. The McKinley Bill does this. There is no place for partisanship in this question. It is simply a matter of figures. They tell their own story, and it would seem that only a very obtuse legislator could fail to read correctly the lesson they convey. In all cases of doubt he should err on the safe side. Much better continue protection, even if it be a shade higher than actually necessary, than run the risk of crippling any branch; because, as we have seen, it is not easy to establish new industries in a country, and it would be much less easy to resuscitate one which, having made a fair start, had gone down in the struggle.

Such are the wonderful resources of this Union of forty-two States, and such is the inventive genius of our people, that very few articles indeed will not eventually be produced within its borders and furnished to the consumer at prices substantially as low as they can be imported from Europe. Some leading articles are already as low, and others are fast approaching this standard. No branch of manufacturing can long reap more than the normal profit derivable from capital generally, for no power on earth can prevent the operation of the law of competition over a territory so extensive as the United States. We have only to be prudent, to avoid violent changes in our fiscal policy,—for change, or threatened change, is in itself a serious impediment to business,—to see that no promising branch of industry is permitted to die in the struggle with the foreigner, and to fight it out on the line we have hitherto followed with such success, even if it should take another decade or more to win the complete victory we have in view—the control of our own home market. The Republic may safely be trusted to do this, and thus prove the truth of one more of the many statements enunciated to the world by Mr. Gladstone, that it is, indeed, "a world, and not a very little world," within itself.

ANDREW CARNEGIE.

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# THE PRINCE OF WALES.

BY JUSTIN M'CARTHY, M. P.

I ATTENDED the meeting which was held in St. James's Hall, in London, to give the first welcome to Mr. H. M. Stanley on his return from Africa. The meeting was held under the auspices of the Emin Relief Committee—the committee who had got up the whole expedition, and who, therefore, had the first claim on Mr. Stanley's presence; and it was presided over by the Prince of Wales. The Prince was received with the utmost enthusiasm. He deserved the enthusiasm in his capacity of chairman; for I have seen a few public meetings in my time, and I do not think I ever saw a better chairman on such an occasion. He spoke well, but he was very brief of speech. Yet he managed to say something quite distinct and expressive. He was not the sort of chairman who gets up and merely announces that he does not propose to stand between the meeting and the orator of the occasion, and then collapses into his chair again. The Prince of Wales managed to give one the idea that he could say a great deal about Mr. Stanley and his expedition if only time allowed him, but that time did not allow him, and therefore he forebore to say most of that which he might have said. He spoke firmly, as if he were contending against a certain difficulty or reluctance. The tone of his voice and something about his utterance reminded me curiously now and then of Lord Hartington.

The whole occasion set me thinking—about the position of the Prince of Wales in English society and politics—about the place he is yet to hold—about the manner in which he is likely to hold it—about the duties of a Prince of Wales in the England of our day, which is a very different country indeed from the England of George the Second or George the Third, or even George the Fourth. My mind sometimes wandered away from the Congo and Emin Pacha.

The function of the late Prince Consort was once described as that of unofficial Minister of Education. The function of the Prince of Wales, as he and society between them have made it

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out, is that of unofficial Minister of Ceremonial. No one could be fitter for the work or could perform it with better grace and greater good-will. Nor is it in a country like England by any means an unimportant function. The Queen has practically withdrawn from the business of social life, and the Prince has taken her place. If he were not there to do the social duties, the absence of the sovereign would become highly inconvenient and would lead to much disatisfaction. The Prince of Wales, however, has made himself thoroughly popular, and the Princess of Wales is the most popular woman in England.

The work which the Prince of Wales does in this social way is something amazing. He is always presiding at the opening of exhibitions and all manner of charitable, philanthropic, and educational institutions. He is always taking the chair at meetings; he goes down to the country to preside over ceremonials of every kind. He attends civic feasts and state balls. All the time he contrives to get a good deal of personal enjoyment out of life. He is a lover of the theatre and seldom misses an important "first night." He runs across to Paris every now and then—he is very fond of Paris and Paris is very fond of him. He sometimes—indeed, almost every winter—takes a trip to Monte Carlo. He loves living and enjoying himself, and must feel the functions and the pageantry a terrible bore very often. But if he is bored, as he surely must be, he has the art not to show it, and each crowd before which he appears is led to believe that his whole soul is for the time in the work he is actually doing. I must say that I think one main reason why he is able thus to wear the look of a man who likes the work is that he really does like it to a certain extent and in a certain way. Of course it must weary him fearfully sometimes, but I fancy that his genuine good nature enables him to throw himself so far into the spirit of each ceremonial as to derive an inspiration and an encouragement from it. Besides, there must be a great charm, surely, in the knowledge that all people think one charming—and I believe all who know him think the Prince of Wales very charming.

There was a time, of course, when hard things were said of the Prince of Wales. There was a time when I myself wrote some hard things of him in an American magazine. That was twenty years ago: so far as I knew then or know now, the censure given to him was just. But he is not now the man he was twenty

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years ago, or anything like it; and although no admirer of his would claim for him a very lofty and heroic nature, yet I think almost every one would allow that he has improved in personal character and ways to an extent which was not observed among former princes of the House of Hanover. Every one says that he is a good friend to his friends. But perhaps not all of the men who belong to the Prince of Wales's set would be right in regarding themselves exactly as his friends. A pleasant prince will always have his jester or two to make him more pleasant still; and a self-conceited man in the prince's set might easily fancy himself a friend whereas he was in reality only a butt. Certainly I meet men now and then who are always reporting themselves to be among the closest friends of the Prince of Wales, and who are quietly smiled at by such of the listeners as happen to know better. I do not know that any of the really eminent men in letters or in science have much to do with the Prince of Wales's set. There is no Fox, no Burke, no Sheridan there. But then a champion of the Prince might well ask, Have we now a Fox and a Burke and a Sheridan anywhere?

The Prince of Wales is sometimes described by admirers as a brilliant after-dinner and ceremonial speaker. He is not a brilliant speaker; and those who describe him as brilliant do not, I venture to think, quite understand his real success in the business which he has to undertake. He speaks directly and to the point. He never obtrudes himself between the audience and the business of the occasion. He never uses the wrong word, and he never says a word too much. He puts as little of himself as possible into his speeches; and while there is always a firm and manful tone about him, there is never any indication whatever of a desire to impose himself and his position on his audience. I am quite sure that he has no such desire. But his speeches have no brilliancy of expression, no originality of thought. They are not eloquent in any sense. The Prince of Wales does not, I fancy, do what other princes have done—get his shorter speeches written for him. At least, I do not think he indulges in such a practice now—if he ever did. As to the longer speeches—well, I have my own ideas about them. Of course he could get a really brilliant and eloquent discourse written for him, and commit it to memory and deliver it to an audience. But the Prince, whether by deliberation or by instinct, understands his part better.

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In England the public do not want an eloquent Prince of Wales. They do not want a prince whom we should all have to compare with Gladstone and Lord Salisbury and the Bishop of Peterborough. Prince Napoleon—"once feared, now forgot," like Will Watch, the bold smuggler of English ballad—the Prince Napoleon of the Second Empire—Plon-Plon—there was an eloquent prince if you like! I used to think him one of the most eloquent of all the orators of the empire—even in the days when Berryer was still to the front, and Jules Favre was in his prime, and Thiers grew old in unwaning power of debate. But in England we are precise and formal, and more than a trifle prosaic; and we should not like a prince who was really eloquent and was always getting compared with this and that renowned orator. We could not have our prince declaiming in the House of Lords as Prince Napoleon was wont to declaim in the Imperial Senate—and to declaim generally in opposition to the policy of his imperial cousin, the Emperor. The ordinary Englishman would think there was something rather unseemly in this sort of eloquence possessed and displayed by a royal prince. The Prince of Wales is, indeed, as far below the intellectual level and the artistic culture of Prince Napoleon as he is above him in tact and temper and personal integrity. He has somehow lighted on the very style of public speaking which suits the British public; and those who think to flatter him by calling him a brilliant speaker only show that they do not understand his part in life. The Prince of Wales must not go into rivalry with any one. When we hear him speak at a public meeting, we must not be oppressed with any idea whatever that he is as good as this speaker, or better than that, or not quite equal to this other. Agamemnon must not be put to the test of discharging his arrow.

It is permitted the Prince to be an excellent chairman; and an excellent chairman he is in every sense of the word. From the testimony of all who know him, I believe him to be in one sense a remarkably well-informed man. He is not a scholar, of course, but he speaks several languages admirably and he has a thorough knowledge of what is going on in the civilized world. He has travelled much, and he has a good memory, and he knows a great deal about the condition of countries he has seen, and he knows all about the public men of the various states. He has a desire to get information and a considerable faculty for acquiring it.

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All this I have heard from ardent Radicals—even from Radicals who avow that they would rather have no throne and no Prince of Wales—as well as from devoted Tory loyalists.

I do not say that all men in England speak well of the Prince of Wales. There are many of the old *noblesse*, and the Catholic *noblesse* among the rest, who regard the prince's set, and Marlborough House generally, with something like a shudder. American visitors sometimes make the mistake of supposing that when they have got into Marlborough House they have got into the very best of English society. They have done nothing of the kind. They might as well have fancied in the old imperial days that when they had been invited to the Tuileries, and talked with the Empress Eugénie, they had got into the best of French society. Many of those who form the *entourage* of the Queen turn their eyes away from the circles amid which the Prince of Wales is supreme. The truth is that the Prince is a good deal of a social leveller. He loves to be amused, and though he can put up with solemn and formal dulness when there is some need for such endurance, he gets back all the more gladly to the society of those who can divert him and make him laugh. I have no doubt that many of the indiscretions of his younger and wilder days came from his delight in the companionship of those who amused him and helped to make life pass pleasantly for him. Therefore he surrounded himself with artists and actors and singers and the tellers of good stories and the makers of good jokes, and he delights in the theatres, is made gladsome by the burlesque, scorns not the ballet, has no conscientious objection to short skirts. He can be as friendly as any man among his friends, and has a curious aptitude for throwing off dignity and yet retaining his hold upon it, ready to wrap himself round with it again if any one should presume too far on his good-natured abandonment.

He does not profess to be a politician in domestic affairs, but yet I have no doubt that he keeps well up with politics, and he likes to know any public man who is at all interesting. Of late he has taken to cultivating the acquaintance of rather advanced Liberal politicians, and Sandringham has received many of the occupants of what we call here "the front opposition bench"—who are Radical Home-Rulers. Nay, more than that, when Lord Randolph Churchill lately entertained him at dinner, one of the

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guests invited to meet him was a "whip" of the Irish home-rule party. Of course every one knows that no one invites a guest to meet the Prince of Wales without making very sure that the Prince is not unwilling to meet that guest, and therefore I take it that the paragraphs in the society papers describing that little dinner did really tell something of a certain public importance.

All this an American might perhaps say is ridiculous—what does it matter whom the Prince of Wales invites to dinner or meets at dinner? I can only say that in this country it means a great deal. It means that the future sovereign of England is alive to the fact that great political movements are going on and have to be recognized. I am satisfied that, by thus proving himself willing to mark the recognition in the only way really open to him, the Prince of Wales is fulfilling one of the most important functions of his station. If the monarchy is to hold in England, it can only be by the monarch ceasing to be a party politician or putting himself at the head of a party. The English people would never again endure a king who openly denounced the leaders of one party and declared that he rested all his hopes upon the leaders of another party. We could not stand even a "patriotic king" now—that is, a king who was kind enough to try to govern us for our good. How, then, should we endure a king who associated himself with one party only, and who shunned and denounced the others? The very name of a king's party now would be fatal to the popularity of any king—might bring down the throne itself. I have no doubt that the Prince of Wales understands all this as well as any statesman in the country. I have not the slightes doubt that he will prove himself a thoroughly constitutional sovereign, and that he will perform the business of royalty, such as it is, as well as any man could do it.

In the mean time there is nothing for him to do but to go on opening exhibitions and bazaars, presiding over public dinners, paying ceremonial visits to the provincial cities, and in the intervals getting out of life all the pleasure it can give him. I can well imagine a Republican being a little shocked at all this. I can hear him asking indignantly whether it is worthy the part of a great civilized and advancing nation like England to keep up a dynasty and a title merely for the sake of having a royal Master

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or Mistress of the Ceremonies always at hand. I should not be surprised to hear such a question put. As a matter of abstract reasoning, I should say it certainly was not worth the while of such a nation to keep up such an office for such a purpose. But there is the fact. The Prince of Wales does for us all that we would allow him to do. He will, to be sure, have functions more wide and serious when he comes to be King. The sovereign undoubtedly does a good deal in the way of considering with the ministers what ought to be undertaken in regard to each important question that arises in home or foreign politics. It is well known that in foreign politics the influence of Queen Victoria has always counted for much, and that she has as thorough an understanding of Continental affairs as any of her foreign ministers. The sovereign is always consulted on the measures which the ministry are anxious to bring forward. The consent of the sovereign is always asked and obtained before any initiative step of a serious kind is taken. The sovereign has a great deal to say about each proposition. It is impossible that the arguments, the impressions, even the prejudices, of the sovereign should not have some effect upon the policy of a government. The great difference between the England of to-day and the England of the Georges is that, if a serious difference of opinion should arise between the monarch and a popular ministry, the sovereign of to-day would give way in the end without scenes and scandal; the sovereign in the days of the Georges gave way only after scenes and scandal.

Admitting all this, it is surely of great importance that the coming king of England should be a man of sense, of tact, of considerable knowledge of men and countries; a man of temper and an impartial man; not an ignorant, prejudiced, hot-tempered, meddling man. Nothing could be more absurd than to suppose that it does not matter to the English people whether their sovereign be a wise person or a fool—a man of equal mind or a muddle-headed partisan. But if I were a very eager and ardent Republican, I should wish that the Prince of Wales were not the man he is. I should wish him to be a hot-headed and muddle-headed partisan. I should wish him to be a dogged Tory and to be seen perpetually in the company of Lord Salisbury and Mr. Balfour. I should wish him, while he was yet Prince of Wales, to be seen at various Tory meetings and to preside over one of the



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gatherings of the Primrose League. I should wish that when he became King he told Mr. Gladstone he would not have him and his pack of rascals at any price—and that then, when public opinion forced him to have Mr. Gladstone as his minister, he went to work to thwart every proposal made by his minister and to dissolve every Parliament which presumed to support the minister against the sovereign. If one could suppose such things happening in our time, one could then easily suppose the throne coming down and the republic coming up. But certainly, if we could suppose such things possible in our time, we could not suppose them possible with the Prince of Wales for king. The Prince of Wales will do nothing in that way to promote the growth of a republic in England.

If we are inclined to find fault with the office of the Prince of Wales on the ground that it is only the office of a Master of the Ceremonies, we must remember that that is what the function has grown to be with the natural development of constitutional liberty in England. A sovereign rules over a people who are not free. Lord Bramwell, one of our great lawyers and judges, said some time ago that he had a sneaking kindness for socialism. I have a sneaking kindness for the German Emperor. Perhaps it might be said of him, as Disraeli once said of Lord Salisbury, that "the young man's head is on fire." But I am taken by his determination "to be a man and not a thing," as somebody says in one of George Meredith's novels. I like his bold challenge to Europe in general to come and consult together over the labor question. I admire the self-satisfied courage with which he assumed at once the right to take the lead of Europe. All this does very well for a German Emperor—but only imagine an English sovereign attempting to play such a part! Imagine the amazement and bewilderment of his ministers! Imagine the consternation of his people! It is possible for the German Emperor to assume such a part, for his people are not, in the English or American sense, a free people at all. They are merely the soldiers of an army. They are drilled rather than governed. The emperor of such a state may well suppose that he is bound to prove his title to be a leader and to mark out a distinct way for himself and to draw all the eyes of the world on him.

When Napoleon the Third was at the height of his fame, he issued invitations to all the great powers of Europe to assemble at

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a congress for the purpose of coming to some understanding as to a settlement of peace and general disarmament. The European states for the most part distrusted and almost resented the invitation, believing that there was, to say the least, a certain arrogance about it—a claim set up to be recognized as the leader of European council. One power after another declined and the scheme dropped through, and unquestionably the failure did harm to the *prestige* of the Emperor. But the German Emperor found his invitations accepted all round without hesitation or objection. No wonder he is encouraged to set himself up as the light and leading of Europe. I doubt very much, however, whether even in Germany it will be possible for an emperor to play the old imperial part. The times are against it; the Germans are a highly-educated people, and they learn a good deal from their brothers and cousins in the United States. If there were no possibility of a war with France, the German Emperor would soon have to be content with reigning and not governing. But whatever may happen in Germany, it is certain that we could not have the King of England uprearing his crest in this ostentatiously heroic fashion. The Prince of Wales has shown, of late years at all events, that he thoroughly understands the nature, the duties, and the limitations of his function as heir to the throne. He will, I have no doubt, show, when he comes to the throne, that he understands his part in that more responsible position just as well.

The Prince of Wales is understood to be a great stickler for court etiquette. No one knows better the exact way in which every band and order and medal should be worn. He is very particular about good manners in princes and princesses, and I have heard that there is a near connection of his by marriage who is often lectured severely on the impropriety of losing his temper when giving directions to servants. The Prince is a social umpire of the utmost authority, and no end of personal disputes are settled satisfactorily by a reference to his good-natured and genial, but firm, counsel. I suppose he is happy in his position. A man of ambition would surely find it all but intolerable to see his whole life going by in that unceasing round of mere ceremonial. The Prince of Wales is not any longer young — he has long left youth far behind him. He is not a soldier — except in the sense in which he is a member of one of the Inns of Court; he has never done a soldier's

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service. His brother, the Duke of Edinburgh, is a working admiral, and if we were to have a war, he would, of course, take his share in the naval work of it. The Duke of Connaught is a brigadier-general in the army and has actually seen service—was, at all events, "on the rough edge of battle" in Egypt; and if there were more wars, he would go to the wars again. But the Prince of Wales must not be a real soldier and must not go to any wars. No doubt he has the courage of his race. The Hanoverian kings and princes, even the worst of them, never wanted courage. But military ambition would be useless for the Prince of Wales. So, indeed, would ambition of any kind. We could not have him writing books like Napoleon the Third with his "Life of Julius Cæsar"; or volumes of poetry like the Queen of Roumania. It would not do for him to paint pictures and send them to the Royal Academy or the Grosvenor Gallery. I have shown how limited is the share he can now take in even the unseen work of politics. It must be, therefore, something like a relief and a satisfaction to have the ceremonial work going on sometimes. It has the appearance of a duty, and, indeed, in its sense it is a duty, and it gives him something to do. It would be hard to find a man better suited for the part.

A foreigner may think it curious that an intensely practical people, as the English are always reported to be, should pay so much money for keeping up such a part. But is not one reason for the course they take to be found in the fact that they are so intensely practical? The institution is there; it is working well enough; there are ever so many reforms that have to be carried out, ever so many other changes that have to be made: why should they waste time and trouble in trying to devise any improvement in an institution which, though costly, seems to give general satisfaction? The vast gulf between the rich and the poor—"the two nations" of Lord Beaconsfield's "Sybil"—is still further deepening every day. Luxury is growing more selfish and more ostentatious in London every year. The moral tone of society, as it is called, is lowering itself deliberately and wantonly with every season. Cynicism sits at every dinner-table. The sort of conversation which goes on openly and undisguisedly in society now would have been impossible twenty or thirty years ago. Men and women at dinner parties talk freely and at large on subjects which formerly were reserved for the men in the smok-

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ing-room or the low whisper of the women to each other in the drawing-room. We have all manner of scandals which are reported in all the newspapers, and, we may be sure, are talked of in Bethnal Green as well as in Belgravia. The poor and the unemployed of the East End must begin more and more to chafe at the condition of things which, as Thackeray puts it, gives the purple and fine linen to one set of men, and to the other "rags for garments and dogs for comforters."

But I do not hear that there is any particular grumbling in the East End on account of the luxurious life which the Prince of Wales is supposed to lead. Indeed, it is much in his favor that almost the only movements of a really serious nature in which he has ever taken part were movements which had for their object the improvement in the housing and the condition of the poor. Not very long since he gave much time and close attention to a commission on this subject, of which Cardinal Manning was one member and Mr. Burt, one of the workingmen's representatives in the House of Commons, another. He has borne an active part in many other organizations for the same general purpose. These things get known at the East End, and they do unquestionably help very materially to make the Prince popular among the working classes and the poor. Enthusiasm in such quarters it would be hard for a Prince to excite who is restricted to so limited a field of action and display. But our royal institutions do not live on enthusiasm. They live on acquiescence. They are accepted. No one can say how long they may not continue to be accepted if they are managed in the same way as they have lately been, and are likely still to be. I am not myself a great enthusiast about royalty or royal personages, but I must say that, so long as we are to have an heir to the throne, I do not think we could find any one better able to conduct the business of the position than the Prince of Wales has shown himself of late years.

JUSTIN MCCARTHY.

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# RAILWAY MEN IN POLITICS.

BY CHAUNCEY M. DEPEW.

THE railroad man in politics has been for some time undergoing an evolution. The presentation of the name of a railroad president before the last Republican National Convention brought the attention of the country to a railroad candidate, his possibilities and disabilities, and the question has since been working out its own solution.

In round numbers, there are about one million men employed on the railroads in this country, and probably as many more indirectly through railway supplies. But leaving out the latter class, who do not actually come under the head of railway employees, we still have an army of one million, who are all voters—comprising about one-thirteenth of the voting population of the United States.

Seventy-five thousand of this force of railway employees reside in the State of New York. Five or six thousand live in Connecticut, about twelve thousand in New Jersey, thirty thousand in Iowa, forty thousand in Illinois, and so on. There are nearly sixty thousand men on the pay-rolls of the Vanderbilt system.

The first appearance of railway companies in politics was in an effort to control the action of the political parties. To this end the patronage of the companies in the way of the purchase of supplies, of employment, and of favors of various kinds was largely used. The ablest representative of this period and type of railway man and politician was Dean Richmond, who was one of the shrewdest party managers we have ever had in this country, as well as an admirable business man. He was for years the dictator of the Democratic party, and had great influence with the Whigs, and afterwards with the Republicans.

With the entrance of Commodore Vanderbilt into railway management and ownership, the New York Central Railroad ceased to be a factor in politics as a corporation. Its purchases were made

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in the open market. Its appointees were selected purely upon their qualifications for the service. Its promotions came only from merit, and all pressure of every kind upon the political action of the employees was not only withdrawn, but prohibited. This method spread rapidly all over the country, and now in no State does the railway company as a corporation take part in politics.

As to the feeling against railway men in politics, it never existed in New England. It became quite acute in this State during the protracted fight on what were termed at the time anti-monopoly issues, but disappeared after the Railway Commission was appointed. So far as politics in New York is concerned, the railway man does not differ from any citizen engaged in any other pursuit, in the consideration he would receive as the candidate for office. In many States in the West, however, a feeling of direct hostility towards or suspicion of railway men as such was cultivated by political leaders on both sides. It was a race for popularity, which at the beginning was an honest effort to secure the credit for the reformation of the abuses of railway management. In territories comparatively new, and with little responsibility on the part of the managers to distant owners, they became in many cases very arbitrary, and exercised favoritism and discriminations, which led to popular indignation and legislation; but in the effort to get the benefit of the hostility toward these abuses the orators of each party began to educate their constituencies in regard to railway ownership and the powers of confiscation possessed by the States in connection with it, and in regard to the devotion of railway employees to their companies as against the communities and the States of which they were citizens, which virtually raised a boycott against railway men as candidates for office.

It never has been decided by the test of a general election with a railway man as a candidate whether this sentiment would materialize into a serious defection of the voters of his party. But the managers of both parties have always been afraid to put a railway man on their tickets for any office in the States where this feeling existed; and in some communities they went so far that they were afraid to nominate them for city, village, or county offices.

The representatives of five States said at Chicago in 1888 that the candidacy of a man prominently identified with railroads as an officer or manager would certainly lead to a reduction

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of their majorities, the loss of their legislatures and representatives in Congress, and probably of the electoral vote of their States.

The prominence given to the question of the availability of the railway employee for office by the dicussion at Chicago led to the matter being taken up in the various brotherhoods and organizations of railway men. While before there had been very little feeling on the subject among railway employees, because it is next to impossible for railway men to hold public office and attend to their duties, yet as soon as they thought that they were debarred from the opportunity for political honors which lawyers, doctors, farmers, merchants, and mechanics could receive, they got mad and wanted to know the reason why.

We then came suddenly to the second phase of the railway man in politics. In the first condition his vote was largely controlled by the officers of the company in favor of candidates supposed to be friendly to its interests. Then for many years railway men acted individually and cast their votes as they pleased and according to their own independent judgments. Since they have discovered that they were under a political ban, they have, through their organizations,—which are the most perfect labor and benevolent associations in the world,—without regard to party affiliations, in many instances supported or fought the candidates whom they thought favorable or hostile to their interests. Results which have astonished everybody, and for which no one could account, in State elections for governors and members of the legislatures in the past two years, have been due to this cause. Some remarkable cases have come under my observation, where the employees, with all their supposed hostility to capital, became its protectors. They quickly saw that certain measures against the companies were intended not to remedy evils, but to cripple the earning power of the companies. They argued that this meant both a reduction of force and of wages, and their attitude towards the promoters became so threatening that the bills were either modified or dropped. The railway men were teaching the politicians the lesson that their votes were just as good as those of anybody else. Of course this could not occur more than once without the question, and its causes and remedies, being exhaustively discussed. It has led to a very remarkable revolution in sentiment not only in regard to railway men, but to railway corporations.

The violent prejudices against railway companies and their

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management, many of which had good foundations in the beginning, no longer exist. Governmental and State regulations, and a radical change in the relations between the railway companies and the public, have led to kindlier feelings and a better understanding. The exceedingly rich and varied vocabulary of opprobrious epithets as against railway men has fallen into innocuous desuetude. Railway attorneys find that juries are treating them the same as any other litigants; and in legislatures and before railway commissions the companies have a fair hearing, and the merits of the case are generally impartially acted upon. Railway men in politics are gradually becoming no different from people engaged in any other pursuit.

I do not believe there are two States in the Union to-day where a railway man running for office would be cut by any considerable number of the members of his party on account of his business.

As to railway men becoming candidates for office, as soon as they know that they are not fighting against a boycott which imposes a stigma upon their patriotism and sense of duty to the public in official positions, few of them will be found willing to take office until they are prepared to quit business. All railway men are politicians, and active ones. Their constant contact with the public, and the habit of being actively interested in everything about them, make them such. But the railway is a most exacting master, and it would be very difficult for one of its officers or employees to hold a position involving his time and attention to any extent, and still continue in the railway service.

As the railways have increased in capitalization by consolidations, and by blending into great systems, concentration of ownership in few hands has become impossible. Railway shares and bonds, since the disappearance of government and State securities, have become almost the only form of investment for those who have any savings, and the proprietors of railways are numbered by millions, and found in every condition in life. The millionaire, the farmer, the artisan, the widow, and the orphan have their surplus, or their all, in railroad stocks and bonds. Hence the management of the railways, with one or two exceptions, has fallen into the hands of salaried officials who own very little of the property, but are retained and remunerated according to their ability in successfully managing the companies for the owners, satisfying the public, and meeting competition.

CHAUNCEY M. DEPEW.

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# SPEAKER REED'S ERROR.

AT THE opening of the present session of Congress the members of the Democratic minority in the House of Representatives sought to embarrass the progress of certain legislation which was objectionable to their party. The plan was to remain silent in their seats and refuse to vote during every call of the *yeas* and *nays;* and, the Republicans being unable to have all their members present, the vote on each roll-call would fall short of "a quorum of the House," which is required by the Constitution to be present "to do business." It must be remembered that the whole Republican vote, when the session opened, was only one more than a quorum.

The embarrassing device of silence had also been used by the Republicans in previous Congresses, when the Democrats held the majority. The public responsibility for this censurable course is, therefore, fairly divided between the two parties. Speaker Reed, on assuming the chair, determined to bring the disorderly practice to an end. He effected this by deciding that it was not necessary to have a quorum of the House answer to the call of *yeas* and *nays*, if, upon count by the Clerk of the House, the members who sat silent would, in addition to the members who answered to their names, make up a quorum. Under this decision, a fraction of the quorum, no matter how small, can transact the business of the House, provided an actual majority of the members be merely present. The tactics of silence were therefore rendered valueless.

The Speaker's success won great applause from his fellow-partisans in the House and in the country, as was entirely natural. But the correctness of his decision has not yet been demonstrated; and I venture the opinion that the ultimate and impartial judgment, both Parliamentary and popular, will be that, while the Speaker's design is praiseworthy, his method of carrying it into

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effect not only reverses all the safe precedents of the House, but violates both the spirit and the letter of the Constitution of the United States.

Speaker Reed had power to arrange the Rules of the House in the precise form he desired. Indeed, every Speaker is able to exercise large influence in shaping the rules, but the general understanding is that the whole subject, for this Congress, was left practically to Mr. Reed's dictation. His principal reform, as he believed, was to embody his Parliamentary decision in a rule which I here quote:

Rule XV., Clause 3: "On the demand of any member, or at the suggestion of the Speaker, the names of members sufficient to make a quorum in the hall of the House *who do not vote shall be noted by the Clerk and recorded in the Journal*, and reported to the Speaker with the names of the members voting, *and be counted and announced in determining the presence of a quorum to do business.*"

At the time the Speaker framed this Fifteenth rule he must have forgotten another rule, as old as the government, which he had already inserted in the code of the present Congress. I quote it literally:

Rule VIII., Clause 1: "Every member shall be present within the hall of the House during its sittings, unless excused or necessarily prevented; *and shall vote on each question put*, unless he has a direct personal or pecuniary interest in the event of such question."

This Eighth rule, it will be seen, makes it the imperative duty of each member to vote when present; but rule Fifteenth permits any member who is present to refrain from voting if he prefers to remain silent. Instead of voting because present, the Fifteenth rule regards mere presence as a valid excuse for not voting. Was the Eighth rule inserted in the code of the House to remain unenforced, while Speaker Reed, in a spirit of plenary indulgence, invented the Fifteenth rule for the ease and convenience of members? The two rules are absolutely contradictory and irreconcilable! One cannot be enforced without destroying the other! All publicists agree that nothing brings law into contempt so rapidly and so certainly as to fail, by mere neglect, to enforce it. But Speaker Reed is the first author of any code of law, Parliamentary, municipal, or public, who deliberately inserted a mandatory rule on one page, and then on the next page inserted a mandatory rule making proclamation that no one need obey the first. The illustrious *Dogberry* is the original authority for this

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mode of making, or at least of enforcing, law. Speaker Reed appears to have taken him as a model.

*Dogberry.*—This is your charge! You shall comprehend all vagrom men; you are to bid any man stand in the Prince's name!

*Second Watch.*—How if he will not stand?

*Dogberry.*—Why then take no note of him, but let him go; and presently call the rest of the watch together, and thank God you're rid of a knave!

*Speaker Reed.*—This is your charge, under the ancient Rule VIII! That all members present shall vote when their names are called.

*Member of Committee on Rules.*—And how if the Democrats will not vote?

*Speaker Reed.*—Why then call together the rest of the committee and ordain Rule XV., by which they need not vote; and thank God that we're rid of a trouble!

Arguing in defence of his rule in THE NORTH AMERICAN REVIEW of March last, Speaker Reed propounds a novel interpretation of the Constitution, and thence a novel foundation for his rule. According to the Speaker's argument, the Constitutional provision which authorizes the House "to compel the attendance of members" was merely intended to bring members to the House, who "by mere attendance" discharged their whole duty, while other members, perhaps more active and more conscientious, did the voting for the whole quorum. To quote the Speaker literally, "Attendance alone was and is necessary," by the Constitution. Is it not, then, most extraordinary, if "attendance alone is necessary," that Speaker Reed should have embodied in the code of the House the compulsory Eighth rule above quoted? If the Constitution declares that "attendance alone is necessary," whence does the Speaker derive the authority for a rule that declares that "every member" who is in attendance "shall vote"? The Speaker necessarily throws contempt on one of these rules whenever he enforces the other.

By the canons of logic two contradictory propositions may both be false, but by no possibility can they both be true. In this case the Speaker has merely the choice of which rule he will disobey and dishonor—the Fifteenth, which is his own device under partisan pressure, or the Eighth, which has been a rule in every House of Representatives since the organization of the National Government.* Is there any precedent of a Parliamentary body

* This rule was originally adopted on April 7, 1789, more than three weeks before Washington's first inauguration. It was then in this form:

"Every member who shall be in the House when a question is put shall vote on one side or the other, unless the House for special reasons shall excuse him."

Among the members of the Committee which reported this rule were James Madison, Roger Sherman, and Nicholas Gilman—three of the most eminent members

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that compelled the attendance of members and then gave those members the privilege of violating its rules?

The Constitution declares that "a majority of each house shall constitute a quorum to do business"; and, in order to secure a quorum, each house is endowed with "the power to compel the attendance of members." Heretofore, and uniformly, it has been held that "a quorum to do business" means a quorum taking part in the business of the House. That seems to be the obvious—nay, the undeniable—meaning of the clause. Speaker Reed has decided otherwise, and his method of counting is fairly illustrated by the following: Suppose a measure pending and the House comes to a vote. A quorum is a majority of the House—one more than half the whole number of Representatives—the number made necessary by the Constitution "to do business." At present it is 166 members. If 129 members vote for a measure and only one against it,* Speaker Reed's ruling declares the measure carried, provided the Clerk of the House can fill the quorum by counting 36 members present in the hall in addition to the 130 who vote in response to the roll-call. These 36 members whom the Clerk counts are sitting in their seats, walking in the rear area, standing in the aisles, bending over desks, engaged in conversation on both the Republican and Democratic sides of the House, commingled with ex-members and with non-members of various classes, who to the number of at least 2,000 have the privilege of the floor, of whom at least 250 are constantly in Washington; and a considerable number of these are daily exercising their privilege. A vote rapidly counted in this way lacks the certainty and security of the call of *yeas* and *nays*. The wrong man may readily be taken, and, not hearing his name read, does not correct it; the vote thus becomes vitiated and the exact result is produced which the call of *yeas* and *nays* was Constitutionally provided to prevent.

The Constitution of the United States declares that the "*yeas* and *nays* of the members of either house, on any question, shall, at the desire of one-fifth of the members present, be entered on the Journal." It is not difficult to define the objects and pur-

of the convention that framed the Constitution a year and a half before. They and all their associates evidently believed that Congress has the right to compel its members to vote.

* This is the precise vote by which the bill "to admit Idaho as a State in the Union" was declared by Speaker Reed to be passed.

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poses of this Constitutional provision. *First*, the call insures the absolute correctness of the vote; each member responding as his name is called and entered on the Journal—an invaluable safeguard when the two parties are nearly equal in the House. *Second*, the call was intended to secure to the constituents an accurate knowledge of the course pursued by their Representative on public issues; to let them know whether he voted *yea* or *nay* on any given question, or whether by silence he evaded his just and honorable responsibility. *Third*, the call was provided as a shield and guard to the Representative, by affording him an indisputable record of his own course, to which he can appeal against misrepresentation and misunderstanding. No one can read the Constitution and fail to see that a call of the *yeas* and *nays* means a call of the "quorum of the House" able "to do business." If the call discloses a less number, the first and only duty of the House is to secure a working quorum. To procure a record of less than a quorum and to "piece out" by some other method or process is clearly a failure to comply with the requirement of the Constitution.

If the Constitution does not mean that the *yeas* and *nays* shall represent a "quorum," then it does not guarantee, as was designed, an absolutely correct record of the vote. If the *yeas* and *nays*, as in the case supposed under Speaker Reed's ruling, show a record of only 130 members who respond to the call, and the quorum is made up by recording the names of 36 members whom the Clerk sees, or thinks he sees, in the hall, then the Constitutional provision is of no earthly value as a safeguard to the House, to the constituency, or to the Representative. Certainly the framers of the Constitution never provided for a call of the *yeas* and *nays* for a part of the quorum, possibly the minor part, leaving the Clerk to provide for the accuracy of the remaining vote by gathering up hastily the names of those scattered around the House, and recording them in the Journal as though they had responded according to the direction of the Constitution. If the Clerk can be trusted to count and record a certain proportion of the names, he should be trusted to count and record all the names! It was never designed that there should be two ways of counting a quorum on a *yea*-and-*nay* vote!

Speaker Reed cannot have failed to observe that there are two

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directions in the Constitution for the calling of the *yeas* and *nays*. One we have already considered; the other is contained in Article I., Section 7, as follows:

"Every bill which shall have passed the House of Representatives and the Senate shall, before it becomes a law, be presented to the President of the United States. If he approve, he shall sign it, but if not, he shall return it, with his objections, to that house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. *If, after such reconsideration, two-thirds of that house shall agree to pass the bill*, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, *and, if approved by two-thirds of that house, it shall become a law.* But in all such cases the votes of both houses *shall be determined by yeas and nays*, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively."

It is to be noted that the President's veto of any bill cannot be overridden *except by a vote of two-thirds of each house;* "but in all such cases"—I quote the Constitution literally—"the votes of both houses shall be *determined by yeas and nays*, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively." Let us suppose that a bill (Senate Bill No. 1129, for example) is vetoed by the President. It is returned to the Senate, and, coming up for reconsideration, is passed over the veto by a vote of 50 yeas to 24 nays. Two-thirds have thus voted in the affirmative, and the total vote (74) is undoubtedly a quorum of the Senate. The bill goes to the House and the House votes 90 in the affirmative and 40 in the negative. Two-thirds of those voting have thus voted to override the veto, but the total vote is only 130—36 short of a quorum and but 20 more than one-third of the House. It is precisely the same aggregate vote on which Speaker Reed declared that the bill to "admit Idaho as a State in the Union" had been duly passed. He did this on the declaration that the number of members present and "*not voting*" added to those "*voting*" made up a quorum of the House. Would Speaker Reed on the same principle declare that *the two-thirds vote of 90 to 40* had passed the bill over the President's veto?

The Constitution says that in passing a bill over a veto the votes of both houses "shall be *determined by yeas and nays.*" If "determined by *yeas* and *nays*," how can Speaker Reed count a class of members who voted neither *yea* nor *nay?* The vote given by *yeas* and *nays* lacks 36 of a quorum. Under what rule can the Speaker add 36 who did not vote to the 130 who did vote? On

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which side will he count them? He cannot know how they would vote. If he divides them evenly between the two sides, it will give 18 to each, and the vote will then stand 108 to 58. That changes the result, because it does not show a two-thirds vote in the affirmative. Observe, further, that the clause in the Constitution says, "if *two-thirds* of the house [to which the bill is returned] *shall agree* to pass the bill, it shall be sent to the other House, and if *approved by two-thirds* of that house, it shall become a law." Two-thirds of "that house" must be two-thirds of a quorum. It is not a house until a quorum is acting. When Speaker Reed shall have recorded the thirty-six members, would he declare the ninety votes as the *approval* of *two-thirds* of the whole quorum of 166, as made up under his famous Rule XV.?

It would be interesting, when the Constitution declares that the "votes" shall be "determined by *yeas* and *nays*," to hear how the Speaker can "determine" the votes by any other process. In all other cases it will be observed that the *yeas* and *nays* can only be called on the demand of at least one-fifth of the members present, but in the case of overriding a veto of the President the Constitution itself directs the calling and recording of the *yeas* and *nays*. The purpose of this specific direction is to guard against all doubt in "determining" the result of the vote, for it is not only the interest of every one to have a correct result, but it is the special right of the President to know with exactness the vote by which a bill is passed over his veto and made a law against his consent.

How would Speaker Reed communicate to the President the supposed result of 90 yeas to 40 nays, when a quorum is 166? It would seem very lame and awkward for the Speaker to state the simple facts of the case. He would be compelled to frame his communication somewhat as follows:

FIFTY-FIRST CONGRESS,
HOUSE OF REPRESENTATIVES,
WASHINGTON, ——— ———, 1890.

TO THE PRESIDENT:

In the vote of the House to determine whether "Senate Bill No. 1129" should pass against your objections, the *yeas* were 90 and the *nays* were 40—more than two-thirds in the affirmative. You will observe that the total vote falls short of a quorum, but under Rule XV. the Clerk of the House has entered on the Journal the names of 36 members who were present in the hall at the time the *yeas* and *nays* were called, *but declined to vote.* Under Rule XV., however, they are permitted to maintain silence and are held to form part of the quorum, just as if they had voted. No one can tell what their votes would have been if they had obeyed Rule VIII, which commands that "every member present within the hall of the House during its sit-

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tings shall vote on each question put." The enclosed extract from the Journal will give you the names of the voting and of the non-voting members of the quorum. Of course the number of names recorded as voting does not answer the Constitutional requirement to override your veto, but you are probably aware of my decision that "attendance alone is necessary." Your obedient servant,

THOMAS B. REED, Speaker.

It is highly probable that in his reply the President would indicate to the Speaker his belief that a quorum made up in that way is not the quorum authorized to pass a bill over the objections of the President. He would very likely remind the Speaker that in the Senate of the Thirty-fourth Congress, on the 7th day of July, 1856, there was a long debate as to whether the number of Senators and Representatives required to override the veto was not two-thirds of the entire bodies voting in the affirmative. Senators A. P. Butler, of South Carolina, and James M. Mason, of Virginia, both made very strong arguments in support of that view. They estimated the weight of the President's dignity so high that nothing less than literally two-thirds of the whole number of each house should be able to override his veto. It was finally decided, however, that two-thirds of a quorum could overcome the President's veto; but it was left for Speaker Reed to decide that, if a majority of members were present, only two-thirds of those who might choose to vote would be sufficient to destroy the President's power. When Speaker Reed shall have succeeded in persuading any President that two-thirds of a minority of either house of Congress can pass a bill over his veto, it will be the duty of the majority of Congress to institute an inquiry into the mental condition of a President who would so readily surrender the Constitutional rights and powers of his office.

There are several other instances in the Constitution where a two-thirds vote is required in Congress—in all, I think four in the House and six in the Senate. In every one of these Speaker Reed's method of forming a quorum is obviously impossible, and a violation of the plain letter of the organic law. Let us subject some of them to a test, viz.: Article V., where two-thirds of both houses, "whenever they deem it necessary, shall propose amendments to the Constitution"; Article I., section 5, where two-thirds are required to expel a member; and Article II., section 2, where two-thirds of the Senate are required to confirm a treaty.

It requires no argument to prove that two-thirds of a mi-



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nority, no matter how many non-voting members may be looking on, would not be deemed sufficient to propose an amendment to the Constitution of the United States. To attempt to settle so important a question as that with a minority vote would be as fatal to Constitutional regularity as to change the number of States necessary for ratification. That two-thirds of a quorum should actually vote is as imperative as that the number of States ratifying shall be three-fourths of the States in the Union. The philosophy of the Speaker's rule would not require three-fourths of all the States. If only four States voted, and three of them supported the amendment, Speaker Reed, if he adhered to his logic, would be compelled to declare the amendment adopted.

Again, it would certainly be a travesty upon the Constitutional rights of a Senator or Representative in Congress to assume that any fraction, whether two-thirds or three-fourths or nine-tenths or ninety-nine-hundredths, of a minority could expel him. It must be two-thirds of a quorum—two-thirds of a majority of the house. The Constitution says that "each house, with the concurrence of two-thirds, can expel a member." Observe that it is the concurrence of two-thirds of "each house"; not of *two-thirds of a minority of each house.* Concurrence means the action of the members present, and two-thirds must concur. It has, indeed, been argued by able Constitutional lawyers that under the letter of the Constitution a member could not be expelled except with the vote of two-thirds *of all those borne on the roll.* The final conclusion, however, is that in all cases a quorum of the house is held to be the house.

Still further, it can hardly be conceived that any man would contend that a treaty could be confirmed by a minority of the Senate. A treaty is the supreme law of the land, and it is a tremendous power conferred on the Senate for two-thirds of its members to confirm a treaty without the coöperation of the House. But by Mr. Reed's rule the votes of two-thirds of a minority of the Senate—if a quorum were in the chamber—could bind the United States against the possible wish of a majority of both branches of Congress.

It will be seen, on trial, that it is impossible to apply the Speaker's rule to a two-thirds vote on any subject. His rule always contemplates a minority vote. It has no application to a majority vote; for a majority vote is always definite, self-explana-

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tory, and needs no rule. *It must be the majority of a quorum.* But a minority vote is less than a quorum, and no one can tell how much less it may be. It may be ten less, or fifty less, or one hundred less, if by the Speaker's rule there be in each case a sufficient number of idle members present to make a quorum. There is no limit to the smallness of a voting minority under the Speaker's rule as he has explained it and enforced it. Hence, on one day two-thirds of a minority may be less than the majority of a minority may be on the next day. The Constitution meant that certain measures are so important and so grave that a mere majority of each House cannot enact them, but that two-thirds of each House shall be required. But Speaker Reed's rule would pass the measures by the votes of two-thirds of a minority, however small that minority might be,—pass them by a vote even far below a majority of a quorum of the House,—while by the Constitution a majority of the whole House is declared incompetent to do it, and two-thirds thereof are required. It has already been shown, in discussing the question of overriding a veto of the President, that the idle members who do not vote, but help by Speaker Reed's rule to make a quorum, cannot be counted in a two-thirds vote without destroying its arithmetical ratio or proportion.

If, in addition to his quickness and brightness in the law, Speaker Reed possessed a little more of the judicial faculty, he would not have failed to appreciate the fact that the Constitution in only two cases recognizes any power whatever as residing in a minority of the House. The first case is that "one-fifth" can authoritatively demand the calling of the *yeas* and *nays*. The second case is that less than a quorum of members can "compel the attendance" of other members; but this compulsory power *is given solely for the purpose of securing "a quorum to do business."*

Precisely at this point the error of Speaker Reed began. He assumed that the Constitutional ability to "compel attendance" was merely for the sake of "attendance," and that the member discharges his full duty to his Government and to his constituents by merely being present. Surely the obligation and duty of members are equal under the Constitution. The duty of one is the duty of all. What one need not do no other need do. If one member fulfils his duty by "mere attendance," another does the

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same—all do the same. Suppose all members should conclude, with Speaker Reed, that "attendance alone" is necessary; what would the Speaker do? He thinks it impossible that all should do the same thing which, under his Rule XV., he has allowed 40, 50, 100, or 150 members to do. In other words, the Speaker relies on the doctrine of chances that all will not do it, and that if he can get a minority of members, however small, with a sufficient number of silent members to make a quorum, he can "do business," though the Constitution declares that "a quorum" is necessary "to do business," and that the business of the House is to be done by the quorum and not by the Speaker.

In legislative bodies where no salary is allowed to members there may be some excuse in popular judgment for non-attendance and neglect of duty. But the Government of the United States believes in just payment for labor done, and has always deemed it wise to make a fair recompense to its Senators and Representatives. Assuredly that is a judicious policy, and nothing can bring it into disrepute except the wilful neglect of duty by Members of Congress.

Our Government is not only just in pay to its legislators, but it is liberal under the Constitution respecting the "attendance" of members. Allowing for sickness, for casualties, for all manner of detention, for the imperative calls of business, for the demands of family, the Constitution provided that only one more than half the whole number of the House should be required for "a quorum to do business." But apparently Speaker Reed thinks that this Constitutional requirement is too hard an exaction to lay on 166 members in a House of 330. He has, therefore, ameliorated the demands of the Constitution which require that the whole quorum shall "do the business" of the House. The Speaker substitutes himself and a small minority of a quorum, and maintains that they can do the business of the entire House of 330 members!

For the peculiar mode in which Speaker Reed dispenses with a quorum in calling the *yeas* and *nays*, he quotes no Constitutional authority to justify his departure from all the precedents of both Senate and House. Neither from his official chair in the House of Representatives, nor in his free expressions in the public magazines, has the Speaker deemed it proper to sustain his position by even one quotation from the learned commentators upon our Constitution. Yet the subject is one which has not

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passed unobserved in the Parliamentary and Constitutional fields. On the contrary, it has been learnedly examined and clearly construed by the great authorities of the legal profession. Men from whom there is seldom an appeal have spoken. Let us hear them. Judge Cooley, in his "Constitutional Limitations," page 171, referring to the provision for calling the yeas and nays, both in the National and State constitutions, says:

"Such a provision is designed to serve an important purpose *in compelling each member present to assume as well as to feel his due share of responsibility in legislation;* and also in furnishing definite and conclusive evidence whether the bill *has been passed by the requisite majority or not.* 'The Constitution prescribes this as the test by which to determine *whether the requisite number of members vote in the affirmative.* The office of the journal is to record the proceedings of the House and authenticate and preserve the same. *It must appear on the face of the journal that the bill passed by a constitutional majority. These directions are all clearly imperative.* They are expressly enjoined by the fundamental law as matters of substance, *and cannot be dispensed with by the legislature.*'"

It is curious to note how frequently and how directly these high authorities condemn the whole scope and purport of Speaker Reed's rule. Instead of allowing a fraction of a quorum to answer the call of *yeas* and *nays*, the remainder to be made up by the Clerk counting the silent members, on the Speaker's assumption that "attendance alone is necessary," Judge Cooley declares that the Constitutional provision was intended "*to compel each member present to assume as well as to feel his due share of responsibility in legislation*"; and, further, each member present must aid "in furnishing definite and conclusive evidence *whether the bill has been passed by the requisite majority or not.*" It is also declared that "it must appear on the face of the journal that *the bill passed by a constitutional majority.*" "These directions are *all clearly imperative*"; are "matters of substance, *and cannot be dispensed with by the legislature.*"

The position of Judge Cooley is strongly corroborated by the eminent Judge Story, the favorite associate of Chief Justice Marshall on the Supreme Bench of the United States. In his great work on the Constitution, Judge Story, referring to the clause of the Constitution which requires the keeping of a journal by each house, and the insertion of the *yeas* and *nays* therein at the desire of one-fifth of those present, declares in Section 838 of the "Commentaries":

"The object of the whole clause is to insure publicity to the proceedings or the

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legislature, *and a correspondent responsibility of the members to their respective constituents.* . . . Votes are ascertained *not by vague conjecture, but by positive facts.*"

It is evident that Judge Story's opinion sustains the same conclusion. Story sees a "correspondent responsibility of members," just as the other commentators do, and he evidently describes Speaker Reed's mode of "piecing out" a quorum as ascertaining votes "by vague conjecture"—assuredly "vague" as to those who do not vote at all under the Speaker's rule, but who are considered as performing their whole duty by "attendance alone."

With these learned commentators Speaker Reed is in direct antagonism. His declaration is that, if a quorum of the House is present in mere bodily form, any number of votes, however small,—even ten against five,—can pass any measure. The *reductio ad absurdum* seems complete when ten members voting *yea* and five voting *nay* (and idle members enough to make a quorum looking on) can enact any bill into law. And to make the absurdity complete and keep close to Mr. Reed's rule at the same time, two votes in the affirmative and one in the negative, with 163 members present as witnesses, can pass any bill, however grave and important. This only shows that folly has no limit, but wisdom is held within fixed lines.

Nor are the English precedents to be overlooked. The country which, as the late Mr. Conkling was fond of declaring, "has maintained a Parliament for eight hundred years," and from which we originally derived our Parliamentry rules, ought to be heard and heeded on an organic question of Parliamentary law. Mr. Jefferson when he prepared his "Manual," which has become the common law of parliaments in America, declared that "the rules of the English House of Commons are probably as wisely constructed for governing the debates of a considerative body, and obtaining its true sense, as any which can become known to us." It is, therefore, with good reason that we recognize May's "Parliamentary Practice," by the late Sir Thomas Erskine May, long the Clerk of the House of Commons, as a work of commanding authority. It has been and is esteemed on this side of the water as highly as in Great Britain. It is so justly appreciated in our House of Representatives that ever since the Speakership of Robert C. Winthrop, 1847–'49, it has been kept on the Speaker's table as a guide and authority on all difficult

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points of Parliamentary administration. I quote, therefore, a most weighty judgment bearing on the point at issue from the 355th page of May (edition of 1873), where it is distinctly stated that "those who are within the House must vote." Illustrating the force of the rule, Sir T. Erskine May narrates, among others, the following cases:

"On the 31st of March, 1848, a member having been found in the House who had not voted on either side, he was brought to the table and was informed by Mr. Speaker that he must vote, whereupon the question was stated to him and he declared that he voted with the *ayes*. On the 1st of July, 1856, three members who had been in the House when the question was put, but had not voted, were required to declare themselves, and the Speaker desired their names to be added to the *ayes*."

At some future day, perhaps, Speaker Reed will deem it wise—nay, deem it necessary—to show a single shred of authoritative Parliamentary ruling to justify a practice so extraordinary! Up to this time the highest authority the Speaker has quoted is that of Governor David B. Hill, when, in a partisan exigency, as President of the New York Senate, he gave a decision that a senator present was a senator voting. Two or three other legislatures are quoted, and some town councils and boards of aldermen. But is it not unprecedented for the presiding officer of a National House of three hundred and thirty members, representing a continental nation of 65,000,000 of people, to rely for his Parliamentary guidance on a partisan precedent of David B. Hill, or on an adjusted dispute between a town council and a gas company, or on a decision of the Tennessee Legislature? Prior to Speaker Reed's decision it was not uncommon—nay, it was common—for disputed legislative questions in Parliamentary bodies throughout the Union to be settled by appeal to the Rules of the National House of Representatives; often by direct personal appeal to the Speaker. In some cases State legislatures have adjourned until a Parliamentary decision could be obtained from the Speaker of the National House on some embarrassing point that had arisen. Speaker Reed has reversed the practice, and we now witness the extraordinary spectacle of the House of Representatives deriving its Parliamentary law from partisan decisions in State legislatures and from the ruling of town governments in adjusting village controversies!

The Speaker certainly finds no example among his predeces-

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sors in the chair to justify his course. Those predecessors include some of the eminent names of the Republic; men from the North, from the South, from the East, from the West! Federalists, Democrats, Whigs, and Republicans! men of every political creed! These Speakers have gone through seasons of threatened revolution, of unbridled party rancor, of foreign war and civil war, involving great national peril, when the very foundations of the government were shaken! Yet not one in the entire number ever suggested that the Constitution contained the strange power which Mr. Reed has induced the House of Representatives to insert among its rules, where it never had place before; nor did any one of them find in the angry partisan contests of State legislatures a guide and rule for the conduct of the National House of Representatives.

In defending his new rule in THE NORTH AMERICAN REVIEW, Speaker Reed permits himself, on one important point, to be strangely misled—I might better say self-deceived! I quote from his article:

"Every day for a hundred years the House has passed bills, in the total innumerable, without even a count, by mere determination of volume of voice. Even when a more certain method of decision was demanded, and members stood in their places and were counted, thousands of bills have gone through on a vote confessedly less than a quorum. When the writer of this article recently declared that he had heard Mr. Carlisle announce such bills as duly passed a hundred times, he was altogether too guarded. He ought to have said a thousand times."

The first rule adopted in the code of 1789 is the same that Speaker Reed has placed in his code. Both in effect say that on the assembling of the House each day nothing shall be done "until the appearance of a quorum." After the Speaker has announced the presence of a quorum, it has always been the Parliamentary presumption that a quorum is present the whole day, unless the Speaker or some member questions the fact and demands a count of the House. When a bill is passed by "mere determination of volume of voice," it is simply because there is no practical opposition to it in the House. If there is just enough opposition for a few members to demand a division, and a division shows an overwhelming majority for the bill on the part of those rising, its opponents either abandon opposition or call for the yeas and nays. There is, indeed, no conclusive test known to the House except the call of the *yeas* and *nays*.

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Mr. Reed, as a member of the House, may have seen ten thousand bills passed as he has described; but in a Parliamentary sense they all passed by unanimous consent of a quorum. All opposition was withdrawn, and the presumption of a quorum was absolute. Every member, including the Speaker, declares a quorum to be present so long as he does not demand a count of the House. Every member is responsible for a quorum being present, because by Jefferson's "Manual" (Section VI. and Section XVIII.) any member has the power to demand a call. Jefferson's "Manual" constitutes part of the rules in Speaker Reed's code. All proceedings of the kind described in Speaker Reed's paragraph above quoted, so far from justifying Rule XV., pointedly condemn it. For the vindication of Rule XV. and the Parliamentary practice under it, the Speaker must show just one case where a bill was passed by a minority of the House on a call of the *yeas* and *nays* duly entered on the Journal. If between the installation of Speaker Muhlenberg and the installation of Speaker Reed, affording a round hundred years of Parliamentary precedents, such a case can be found, all the Parliamentary authorities of England and America must be rewritten.

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In the order of this discussion we have now reached the crucial test of the whole argument. At this point, to quote a favorite expression of Colonel Benton, the "knife is upon the nerve." Here Speaker Reed may naturally say: "Admitting all criticisms and objections, what can be done when the Democratic members refuse to vote and rigidly maintain silence, and when it is impossible to secure a quorum made up of Republican members alone? The Republicans are, indeed, in the majority by a few votes, but the accidents and incidents of life render it impossible to have 166 Republican members steadily in their seats. There are perhaps 225 or 250 members usually present, out of a House composed of 330 members; but, when they deem it their interest, on certain questions the Democratic members decline to vote and persist in keeping silent. What, then, is the Speaker of the House to do, placed between a Republican party that cannot always muster a quorum and a Democratic party which by silence endeavors to break a quorum?" And it is out of this precise situation, no doubt, that Speaker Reed felt himself driven to the

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Parliamentary decision which the Republican majority of the House has indorsed and embodied in Rule XV.

If it were merely a question of the "absence" of the Democratic members from the hall, Speaker Reed knows that he could quickly secure their presence. Even a minority of either house can "compel the attendance of absent members in such manner and under such penalties as each house may provide." This power is one of special efficacy, and the reason for its special efficacy is that "penalties" can be levied by the house for "absence," to whatever degree each house may in turn direct. The first House of Representatives provided by a rule adopted November 13, 1789, and amended to make it stronger December 14, 1795, that under "a call of the House" the absent members, as they appeared, should "be taken into custody," and "might be sent for and taken into custody wherever found" by special messengers provided for the purpose. By the provisions of this rule the members could be fined for their absence, and for many years they were compelled to pay the expenses of their own arrest, unless relieved by a vote of the House. In fact, the House by a majority vote can levy any penalty it chooses upon a member for being "absent." The power to "compel attendance" is thus irresistible. By the decision of more than one Speaker, and by accepted Parliamentary law, a member fined for being absent "is not at liberty to address the Chair or make a question of order" until "he has paid all fees assessed against him."*

While, therefore, it is no wonder that Speaker Reed feels competent "to compel the attendance of members," it is, on the other hand, inexplicable that he does not feel equally competent to compel members "to vote" when present. The power to do the

*During the first session of the Thirty-sixth Congress, on June 6, 1860, the Speaker *pro tempore* (Mr. Colfax) decided that an absent member brought to the bar and fined could "neither address the House nor appeal from the Speaker's decision until his fine was paid." He decided also that "the fact of a salary remaining in the hands of the Sergeant-at-Arms does not pay the fine." Mr. John Cochrane, of New York, was the member involved, and, being unable to make an appeal, Mr. Florence, of Pennsylvania, said that he would make an appeal on the gentleman's behalf. Mr. Florence thought it "a monstrous proposition that, because a member owed a fine of two dollars and a half, his constituents should be deprived of his services on the floor under an arrest by the Sergeant-at-Arms." He therefore appealed from the Speaker's decision and asked for the *yeas* and *nays*. He was not sustained by a sufficient number to secure the calling of the *yeas* and *nays*. The decision of the Chair was then approved without a division. Decisions to the same effect were made as early as the Speakership of Mr. Macon, 1801-1807.

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one is as direct as the power to do the other. If there be any difference, it is in favor of the power to compel a member to vote. The clause of the Constitution which directly follows that relating to "compulsory attendance" is the following:

Article I., Section 5, clause 2: "Each house may determine the rules of its proceedings, *punish its members for disorderly behavior*, and, with the concurrence of two-thirds, expel a member."

How or why Speaker Reed could ever have overlooked this clause, how or why he could ever have failed to apprehend its deep and far-reaching significance, how or why a mind as elastic and alert as his did not at a glance measure its sweeping Parliamentary value, must remain a marvel to those who know him! The Constitution authorizes the House to levy "penalties" on the members who "absent" themselves from the House, and the same Constitution authorizes the House to "punish" the members for "disorderly behavior" in the House. "Disorderly behavior" comprehends almost every form of offence; it is the opposite of "good behavior," on which rests the tenure of the Federal Judiciary, as defined in Article III., Section 1, of the Constitution. But, primarily, "disorderly behavior," used in a Parliamentary sense, means *the intentional, defiant violation of a rule or order of the House.* This is and has always been held to be a contempt, and ranks highest in the order of its guilt respecting the just authority of the House. It is a breach of privilege, and uniformly held as such whenever it has been brought to a judgment both in the United States and Great Britain. May's "Parliamentary Practice," page 85 (edition of 1873), says:

"Wilful disobedience to orders, within its jurisdiction, is a contempt of any court, and disobedience to the Orders and Rules of Parliament, in the exercise of its constitutional functions, is treated as a breach of privilege. Insults and *obstructions* are by the law of Parliament breaches of privilege. It would be in vain to attempt an enumeration of every act which might be construed into a contempt, . . . but certain principles may be collected from the Journals which will serve as general declarations of the law of Parliament. Breaches of privilege may be divided into: 1. *Disobedience to general orders or rules of either house;* 2. *Disobedience to particular orders;* 3. Indignities offered to the character or proceedings of Parliament; 4. Assaults or insults upon members, or reflections upon their character and conduct in Parliament, or interference with officers of the house in discharge of their duty."

It will be specially observed that members of the House who maintain silence when their names are called, who defiantly re-

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fuse to vote and thus violate Rule VIII., which commands that "every member shall vote on every question put," who thus place "obstructions" against the discharge of the regular order of business, are guilty of "disorderly behavior," as the American Constitution terms it, or of "contempt," as the British Constitution terms it, of the very highest and most offensive type. The House, under the clause of the Constitution I have quoted, may "punish" the offending member even by expulsion, if a vote of two-thirds can be commanded, or he may be punished with the concurrence of a mere majority by fine, imprisonment, or certain deprivations of Parliamentary privilege. The House need not inflict the "punishment" each time by special vote, but can adopt a rule conferring upon the Speaker the power to inflict the punishment on each and every offender, within certain specified limits. Sir T. Erskine May, in the volume from which I have already quoted, shows that "the cases are numerous in which members of the House of Commons," under a power precisely like unto that which our House of Representatives possesses, "have been called to account and punished by admonition and imprisonment." These punishments were inflicted for offences of less mischievous character than those which Speaker Reed failed to punish and correct, even with the large power placed in his hands by the Constitution.

But high as the British authority is on the Constitutional and Parliamentary point at issue, it is fortunate that we are not compelled to rely upon it wholly or even mainly. The American authorities are numerous, full, and conclusive. Judge Cooley, whom I gladly quote again, for his authority is always clear and exact, declares, on page 161 of his "Constitutional Limitations," as follows:

"Each house has also the power *to punish members for disorderly behavior*, and other contempts of its authority, as well as to expel a member for any cause which seems to the body to render it unfit that he continue to occupy one of its seats. This power is generally enumerated in the Constitution among those which the two houses may exercise, *but it need not be specified in that instrument, since it would exist whether expressly conferred or not. It is a necessary and incidental power, to enable the House to perform its high functions, and is necessary to the safety of the State.* It is a power of protection."

*The Federalist* strongly sustains the italicized portion of Judge Cooley's opinion above quoted. No. 44, page 354, referring to the clause in the Constitution authorizing Congress to

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make "all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States," says :

"Had the Constitution been silent on this head, there can be no doubt that all the particular powers requisite as means of executing the general powers would have resulted to the government, by unavoidable implication. No axiom is more clearly established in law, or in reason, *than that wherever the end is required, the means are authorized ; wherever a general power to do a thing is given, every particular power necessary for doing it is included.*"

Judge Story speaks in his "Commentaries" with great positiveness on the point at issue—so positively, indeed, that he did not recognize any ground for doubt as to the meaning of the clause of the Constitution. I quote his Section 835 :

"The next clause is, 'each house may determine the rules of its proceedings *punish its members for disorderly behavior*, and, with the concurrence of two thirds, expel a member.' No person can doubt the propriety of the provision authorizing each house to determine the rules of its own proceedings. *If the power did not exist, it would be utterly impracticable to transact the business of the nation either at all, or at least with decency, deliberation, and order.* The humblest assembly of men is understood to possess this power; and it would be absurd to deprive the councils of the nation of a like authority. *But the power to make rules would be nugatory unless it was coupled with a power to punish for disorderly behavior, or disobedience to those rules.*"

Under the plain construction of the true meaning of the Constitution thus laid down by Judge Story, where "disorderly behavior" is really held as synonymous with "disobedience to the rules," a member of the House who refuses to vote when there is a plain and positive rule directing that "he shall vote on every question put" (Rule VIII.) *may* at once be punished, and *should* at once be punished, in whatever form and to whatever degree the House may adjudge proper, by its own direction, or, more conveniently, by clothing the Speaker with full power to administer the punishment under a general rule adapted to the cases likely to arise.

Can there be any doubt that the refusal of a member to vote when the *yeas* and *nays* are called, and when he is admonished to do so by the Speaker, should be punished ? Suppose that Speaker Reed, instead of resorting to the new and forced construction that "attendance alone is necessary" to make a quorum, and thus relieving members from their equal obligation to vote and take part in the business of the House, had proposed an effective rule, in-

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stead of Rule XV. In other words, suppose that the Speaker had made his Rule XV. read as follows :

> Rule XV. If a member shall refuse to vote on a call of the *yeas* and *nays*, after being requested by the Speaker to do so, he may be fined by the Speaker, not exceeding $50; and until said fine is paid said member shall not be allowed to take part in debate in the House or in Committee of the Whole, nor shall he be allowed to present any question of order to the Speaker.

This rule would be as directly and indisputably in accordance with the clause of the Constitution which I have quoted as is the rule "compelling the attendance of absent members." The two clauses are side by side in the Constitution, refer to the same general subject, are explicitly adapted to similar needs in administering either branch of Congress, and are interpreted, explained, and sustained by the most eminent authorities that have defined the limitations and illustrated the powers of the Constitution.

If objection be made to the form of "punishment" proposed in the new rule, I have only to say that other punishments perhaps more effective might be devised. I have aimed only to get rid of Speaker Reed's Rule XV., and to frame a rule as a substitute which, simple as it is, would prove completely effective. But each house could adopt a rule of the kind peculiar to its own needs, as those needs might be developed. How full and varied are the powers of the House in this respect may be inferred from an extract from Chief-Justice Marshall's celebrated opinion in the case of *McCulloch vs. the State of Maryland*. Not originally relating to the subject, but plainly referring to the great powers of the Government, its clear logic and principle have so direct a bearing on the matter under consideration that it must prove instructive. Here are Marshall's words:

> "Our Constitution was intended to endure for ages to come, and consequently to be adapted to the various crises of human affairs. To have prescribed the means by which government should, in all future time, execute its powers, would have been to change entirely the character of the instrument and give it the properties of a legal code. *It would have been an unwise attempt to provide, by immutable rules, for exigencies which, if foreseen at all, must have been seen dimly, and which can be best provided for as they occur.*"

Does any one doubt that the proposed rule would prove effective and produce the desired result? How often would any member refuse to vote with the penalty of a $50 fine for each refusal, accompanied by the complete deprivation of the right to address the House, or raise a point of order, until the fine was paid? The roll might be, as it often is, called several times in one day, and

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the obdurate member, determined to defy the authority of the House, would do so at the expense of his own pocket to an amount that would render the luxury of "disobedience" an expensive one. In fact, if the rule were adopted by the House to-morrow, there would never be a fine collected or even levied under it! The effect would be the same as under the kindred rule which is applied to the cure of absence. It would be obeyed promptly, cheerfully, and gladly. The majestic power of the House, when asserted in its own government, has never been defied, disobeyed, or successfully evaded!

If this clause be so simple and so easily applied, why, it may be asked, were its force and aptitude not long ago applied to the effective control and government of the House? It may be confidently answered that it has, in fact, been so applied from the foundation of the Government. It was under this clause that members of the House have been expelled, and that, far oftener, they have been called to the bar of the House and publicly censured by the Speaker. The power under this clause has not been evoked for the cure of those members who refuse to vote and maintain a dogged silence when the roll is called, because both parties have been resorting to it, and because it is only within the last two years that the evil practice has been carried to intolerable extremes. But the power must be used. Indeed, the discipline of the House would be destroyed, its government would be in chaos, if the practice of breaking a quorum at will by the refusal of members to vote could not be suppressed. The Constitution, when the evil is at its height, plainly points the way to its utter extirpation.

The practice itself, bad as it is, is not a worse evil than the remedy which Speaker Reed has induced the House to adopt. To violate the Constitution; to demoralize the House by allowing less than a quorum to do its business; to destroy thereby the safeguard, the vigilance, and the responsibility of Representative Government; to pass over the offence of members who bring the authority of the Speaker into contempt, and the business of the House into anarchy,—these are the defacements of order which the enforcement of Rule XV. will in time stamp upon our Parliamentary history. May we not believe that Speaker Reed is strong enough and wise enough and brave enough to retrace his steps and correct his error?

X. M. C.

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# CONTESTED ELECTIONS.

BY THE HON. THOMAS B. REED, SPEAKER OF THE HOUSE OF REPRESENTATIVES.

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IT IS easier to find fault than to find a remedy; and yet finding fault is the essential prerequisite to any remedy whatever. If, therefore, this article seems to more vigorously complain of existing abuses than to clearly show how those abuses can be speedily remedied, it must be charged to the nature of the case, and not to any doubt that the abuses need remedy.

The Constitution prescribes that each house of Congress shall be the judge of the elections, returns, and qualifications of its own members, and under that clause the House of Representatives is the final tribunal for the decision of contested-election cases. It cannot divest itself of its power in that regard, and has not the same freedom to make laws upon the subject which is enjoyed by the British House of Commons. This power of final decision as to its membership became vested in each house from causes which were entirely natural. We embodied in our Constitution the English idea, and that idea had its origin in the fact that in the earlier days there was no other place to lodge so great and essential a power. The crown could not have it, for the House of Commons often represented a people entirely antagonistic to the king, and always a people who on some points differed from him, and whose control over taxation could not be suffered in any way to be taken from them. The power could not be vested in the judges, for in those days the judges were but representatives of the king himself, doing his work by his appointment and holding office at his will. Hence there was in early days no place where the right to judge of the elections could be lodged except with the elected body itself.

Of course there was always a possibility that the elected body

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might find itself in the position of the House of Representatives which was electrified by the statement of John Quincy Adams that he would put the vote himself. At that time the mere clerk of the former House had assumed to pass in a preliminary way upon the right of members to their seats. And to-day at the opening of each Congress we have the anomaly of a clerk of a House which has ceased to be, calling to order the House that is to be, and determining the membership of that House for the purposes of organization, with all that that implies. Whatever doubts there may be as to the power of any law to so order the organization of the House of Representatives, the law has thus far been acquiesced in because of the fear that any other course might lead to chaos. It is true in theory that the House, upon organization, may at once proceed to correct all the mistakes and usurpations of the clerk; yet, in fact, such mistakes and usurpations having been committed in the interest of a party and for the very purpose of putting that party in power, he would be a sanguine man indeed who hoped to see a wrong repudiated which was thus premeditated and profitable. If the members of a court of law, grave and reverend, can almost always find reasons for deciding either way, a mere politician would hardly be at a loss for excuses in time of political stress.

Prior to the year 1770 the House of Commons determined its election cases as party questions by a vote of the whole House, and on most occasions little attention was paid to the views entertained by the constituents or to the votes they might have given. In one instance the party element in the decision was so pronounced that the ministry resigned because they were beaten in an election case. This system is largely our own to-day, and brings back to memory the reply of Mr. Robinson, of Massachusetts, then Representative and afterwards Governor, when asked what were party questions. "I know of none," said he, "except election cases." The Governor's epigram, though not absolutely accurate as fact, describes the attitude of the House towards election cases. It is an attitude which has so much of human nature in it that nothing will ever change it in the vast majority of cases. Men have no time to examine evidence, and no inclination. To conceive anything more dreary than would have been the task of examining the evidence before the present House surpasses human imagination.



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Think of reading, amid intervals of letter-writing and errand-doing for constituents, fifteen thousand pages of evidence as a preliminary to the perusal of the arguments of counsel learned in the law. Think of the weary hours and the aching eyes; and think also how little time would be left for even that attention to other public business which we really have to give not merely to save the country, but to keep the constituents in reasonable humor. However often the fervid eloquence of some member who has read the evidence may exhort us to act as "judges and not as partisans," we are utterly unqualified to do so, and utterly incapable. Whether prior to 1770 the English House had the advice of a committee who had examined the case, I do not know, but I should judge from all the accounts that they proceeded upon knowledge which must have been very general. In the American House all the cases are examined by a committee, and are really examined with much care and in a most exhaustive manner. Nevertheless, the committee usually divide on the line of party, when they divide at all, and the House usually follows in the same way. To any thinking man this is entirely unsatisfactory. The decision of election cases invariably increases the majority of the party which organizes the House, and which herefore appoints the majority of the Committee on Elections. Probably there is not a single instance on record where the minority was increased by the decision of contested cases.

It is not the intention to assert that the majority of the Committee on Elections is always followed in servile fashion by the majority party. But the exceptions are sometimes more ludicrous commentaries on the House system than the regular cases. One case can be called to mind, not twenty years ago, where all the testimony except the member's own declaration seemed to show that he had not been naturalized. But the question got into such shape that a decision adverse looked like a decision that no man could be regarded as a naturalized citizen who had lost his certificate. As soon as that happened, it was amusing to see how men in districts full of adopted citizens rose above party and blossomed into language of the loftiest and most disinterested non-partisanship. If the member had not been naturalized by the courts, he soon was by the House of Representatives itself, and by a large majority. Not only are the decisions of contested-election cases very unsatisfactory, but they consume the

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time of the House to the exclusion of valuable legislation. Each case takes from two to five days for discussion. While the discussions are for the most part able, and cost those who speak much time and long-continued effort, they are never listened to by even a third of the members; for, knowing nothing of the testimony, the members can see but little of the bearing of what is said. Sometimes, of course, though rarely, the case may turn upon some single principle or upon some great central facts. In that event the House may become deeply interested, and may even take the case into its own hands for decision. Such instances are rare, and the incoming of an election case is a leave-of-absence for three-quarters of the House.

The methods of taking testimony are very tedious and exasperating. Each party is limited as to time, and has to take his testimony in writing before magistrates, and sometimes must have a score of lawyers obtaining evidence in different places at the same moment. There is but little to restrain partisanship, and nothing to keep the lawyers within any limits. Everything is dragged in which the whim of a lawyer may call for. You can object, to be sure, but the testimony goes in just the same, and is printed just the same; and you must make answers to it, however irrelevant you may deem it and however wasteful it may be of your time. So great at one period became the expense to the government that a law was enacted, which is still in force, that only $2,000 should be granted to any contestant or contestee to pay his expenses. If he spent more, it must be out of his own pocket. This law has worked very grave injustice, for the range of testimony is not within the control of the parties to the contest. They must each meet the attacks of the other, and each must prove his case exhaustively. In the somewhat celebrated case of Governor Curtin and Mr. Yocum, even after the passage of this law, both parties were paid $8,000 each, and that sum did not pay their expenses within thousands of dollars. In that Congress (the Forty-sixth) $59,567 was paid to members and contestants, and in the next Congress $71,285 was the large total; twenty-four men receiving the full amount allowed by law and two members $3,500 each. During the last eight Congresses $318,000 has been paid for contests in the House, making an average of about $40,000. Large as is this expenditure, it is not large enough in reality, if the present system is to be maintained; for the restriction to $2,000 is very hard

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upon contestants of limited means. If they enter upon a contest, especially in the midst of unfriendly officials, as is the case in some districts, no one can tell where the expense may end. In fact, it may be doubted if the restriction was not suggested and put on with that view, though it is very certain that the Congress which passed the law did not appreciate what it was doing.

It may be asked why men should be paid at all for struggling for a place which will belong to the one who gets it. Why should the people be taxed to determine which of two men shall have $5,000 a year? It is precisely because it so much concerns the people to determine who is to rightly represent them that even money becomes of no consequence. In truth, to determine who shall so represent them is the cause of all elections, the reason itself of all the turmoil we make and the expense we incur. When we say of the man who is elected, but is defrauded of his seat, "This is his affair alone," we make office a private perquisite, and not a public duty. So much, indeed, is the public concerned that it has always been deemed worth while to pay the expenses of both sides so that the truth may not fail to be brought out. If, then, we are to pay at all, we must pay all it costs. And if it costs too much, we ought to devise some plan to lessen the cost.

What our present system costs in the time of the House has already been adverted to. It would be difficult, without much labor, to state exactly in days how much time is consumed each session in arriving at our very unsatisfactory conclusions; but the nine cases decided thus far in the present House have consumed sixteen days, or more than one-ninth of the time of the session. Of these nine cases, it must also be borne in mind, the reports in three were in favor of the sitting members; two of these excited no debate, and the other consumed but part of one day. In the Fiftieth Congress four cases took nine days, and in the Forty-eighth thirteen days were consumed by six cases. It may be safely said that more than two days of the House on an average are spent on each contest.

The fault of unsatisfactory results does not rest on the committees. Some of the best men of the House have been on the Committee on Elections. As to the members of the present Committee on Elections, it might not transcend the agreement of all if it should be said that they are a set of men whose character,

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ability, legal knowledge, and uprightness it would be difficult to surpass, or perhaps parallel, in this or any other House. Yet whenever the decision has been against the sitting member, the division has been upon party lines; and whenever the two wings of the committee have agreed in favor of the sitting member, it has always, or almost always, been on different grounds. Of course this sharp line of demarcation may in some measure be caused by the strong party feeling which has prevailed during the session. Nevertheless, in other years there have been similar results.

To sum up the whole situation, it may be said that our present method of determining election cases is unsatisfactory in results, unjust to members and contestants, and fails to secure the representation which the people have chosen. In addition, it is costly to both the parties interested and to the people of the country, and is costly not only in money from the treasury, but in the time of the legislative body.

In England, in 1770, the system of determining election cases by a vote of the House had caused so much dissatisfaction that George Grenville proposed that the final determination of each case should be left to a jury of members chosen by lot, and Parliament agreed to the plan. After a time, by a change of the law, thirty-three men were chosen by ballot, and from this list of thirty-three, eleven names were stricken off by each party, and the case was decided by the remaining eleven. These methods of deciding, though there was still great complaint, worked in a manner much more satisfactory than the decision by the full House, and continued in vogue until 1839, when the dissatisfaction broke out again, and a bill was introduced by Sir Robert Peel increasing the power of the committee and also its responsibility. This bill became a law. Notwithstanding Sir Robert Peel's sanction, which, from his experience and unrivalled parliamentary knowledge, might have been deemed a sure guarantee of the efficacy of the law, it was repealed after a trial of only two years. In 1848 the House transferred its entire authority to the Committee of Elections, which was composed of six gentlemen appointed by the Speaker by his warrant, but subject to the approbation and sanction of the House. These gentlemen acted under oath and were men of the highest standing and attainments. Nevertheless, the Chancellor of the Exchequer, in 1868, was forced to say that "that tribunal

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had not proved satisfactory": expenditures had increased; corrupt practices had not declined; the decisions had been uncertain and contradictory. From all this the Chancellor inferred, and the House was of the same opinion, "that there is something in the principle upon which the jurisdiction of the House in regard to controverted elections rests which is essentially vicious." Acting upon this opinion, it was determined to free the decision of contested-election cases from all Parliamentary entanglements; to take them from the hands of the unprofessional men who could only hear testimony and could not preserve continuity of principle or plan of action, and place them in the hands of the judges, who could and would establish plans for determining the facts and principles of law which should guide their decision of the cases. It was further provided that the judge in charge of the case should, if he saw fit, investigate the election where it took place and determine the facts on the spot. This system has been in operation for many years and has worked well. The judges who have charge of these cases were selected under the law of 1868, one from each of the great divisions of the Law Courts, Queen's Bench, Common Pleas, and Exchequer, and others were added to the list if the number of the cases required it. One judge without a jury sat in each case.

It will be seen that there are many difficulties in the way of our following the example of Great Britain. Parliament is a constitution unto itself. It can divest itself of any of its powers. Nothing but a constitutional amendment, ratified by three-fourths of all the States, could place the House of Representatives in the same position. We could not divest ourselves of our right to be the judges of elections, even if we would. Nor would any statute enacted by both houses serve the purpose. The election-contest laws which we have now do not bind us except by our own consent. Yet in practice they do bind us; and here may be the solution of our difficulties. There is probably no doubt that, if some tribunal were selected by Congress and its decisions were acquiesced in for a few years, there would spring up such a consensus of opinion that ever afterwards the House would cease to do more than record the decisions of the tribunal established in part by itself, or, to speak more accurately, by its predecessor and by Congress. Any law which made the decision *primâ facie* would certainly be respected and would certainly work the cure.

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The determination as to what tribunal should be taken is by no means free from difficulty. When in 1868, as has been said, it was resolved by Parliament to divest itself of all authority as judge of the election of its own members, the Select Committee of a previous year, composed of very eminent men who had given the subject much consideration, were decidedly of the opinion that no less a tribunal than Her Majesty's judges would serve the purpose or be august enough to be the substitute for the House of Commons. Accordingly, the government had promised to bring in a bill with that provision therein. The judges were communicated with in order to obtain from them any suggestions they might wish to make as to the details of the measure which was to confer upon them this new power and exact from them this new duty. Somewhat to the surprise of the government, the judges did more than respond to the inquiries made of them, and volunteered the suggestion that they did not wish to have the power or to perform the duty. The debate in Parliament does not disclose the communication made by the judges, nor exactly define the grounds of their objection; but I infer that they had a natural fear that, if they became involved in transactions relating to party politics, even if the question to be determined was one of law and fact simply, their usefulness in the discharge of their general duties might be impaired. Though this objection has some force, and was so treated, Parliament seems to have finally determined that, without impairment of their usefulness elsewhere, the duty of determining contested-election cases might well be devolved upon the judges.

This objection would be urged in the United States against any tribunal which could be selected among those now in existence. But such an objection would not exist in practice. The true safeguard against partisanship and against the charge of it would be the openness and necessary publicity of all the proceedings. It is easy enough for a man to be a partisan, surrounded, supported, and sustained by others who act with him; but on the bench, alone by himself, face to face with the community, a judge would be true to his duty and true to his office.

There is one danger, that of undue influence, which would arise from the relations which a judge has with the community in which he lives. We are none of us isolated in this world, and it is doubtful whether we would become better judges if we were,

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Nevertheless, there are influences which ought to be guarded against. If it were possible to detail judges of rank corresponding with those selected in England, it would be fortunate for us beyond a doubt. If the Supreme-Court judges could try such cases, their high character and sound learning would not only be a safeguard in themselves against injustice, but would inspire that confidence which is half the battle. But with the present number of judges and the volume of work imposed upon them, such detail would not be practicable, even if there were no other objections.

There remain the circuit and the district judges. The latter would have the advantage of being upon the spot, of having familiarity with the ways and manners of the people immediately concerned, and could perhaps make the needed examination into the cases with less waste of time than any one else. The objection would arise from the possibility of undue local influence. By this is not meant, of course, any influence of which the judge would be conscious. But the desire to be well with one's neighbors is one of the most powerful controllers of men.

If the new bill to relieve the Supreme Court, which has already passed the House, should pass the Senate and become a law, there would be a large number of circuit judges, and from that number three or six, or even more, could be detailed to act as judges of elections of members of Congress. Each judge could take testimony, make investigations on the spot, and pronounce his opinion, which could certainly be made *primâ facie*, and which the House would not be likely to disturb.

Such a tribunal, empowered to make rules and regulations, and to establish in the light of growing experience rules of evidence which should be applicable to contested-election cases, would save much cost of money and spare much time of the legislative body, and give the country assurance of sound and safe decisions on the very vital question as to who have been chosen to make the laws and direct the fortunes of the Republic.

THOMAS B. REED.

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# NOTES AND COMMENTS.

## I.

### ANOTHER VIEW OF GAMBLING AT SEA.

I AM amazed at some of the statements in Captain Kennedy's article in the June number of THE NORTH AMERICAN REVIEW, for I am in a position to know that not only is gambling not encouraged by the steamship companies, but that every effort is made to suppress both gambling and every other breach of law and order. To enforce the rules made by them for the purpose, and for the protection of passengers, they look to the commanders, who are always sure of receiving their moral support in the maintenance of law, order, and discipline. A little consideration will show that the most vital interests of steamship companies are involved in preventing vice of all kinds. All know that it is not the gambler or the drunkard whose patronage is valuable. If these were known, they would have difficulty in obtaining a passage in any first-class steamer, but, unfortunately, they are not; it is only when their character is evident at sea that they come under the surveillance of the commander and officers, who are usually competent to suppress drunkenness entirely and keep gambling within limits.

But is it really true that gambling is practised on board Atlantic steamers to the extent that Captain Kennedy would have us believe? I do not believe it. If it is, it is known only to those who play high. It would, indeed, be singular if high play could be kept long a secret; it must surely become known. I have, in a rather long period of service, known very few instances. It would, judging from my experience, be impossible to praise too highly the obedience to rules for the maintenance of order and discipline displayed by passengers crossing the Atlantic. Of course this must be considered in relation to the number carried. In the large numbers carried there must be the usual relative proportions of the virtuous and of those who have the smaller vices of humanity in a greater or less degree. Some, even the most virtuous and exemplary, will play cards for small stakes, will bet on the distance run by the ship each day, the number of the pilot-boat, etc.—such gambling as is usual among any similar association of men wherever they may be. This is about the extent to which gambling is carried on within the knowledge of the authorities on board ship, and it is tolerated to this extent because no law can prevent gambling in this mild form. Sometimes a professional gambler will be a passenger, but he is usually soon known, and as soon as known, he is scrupulously avoided by all sensible men.

I have no doubt the instances cited by Captain Kennedy are true; and they were clearly cases for his interference. He should have known, in the first case he cites, that unusual gambling was going on in the smoking-room, and he should have interfered to prevent it—by force, if necessary. In the second case, he should have protected the young man by insisting on having his money returned by the men who had robbed him, or, if not, he should have given the swindlers in charge on his arrival in port, and prosecuted them for fraudulent practices on board his ship.

It is almost incredible that Captain Kennedy could pen the following sentence: "But when I considered that I had no authority to prevent gambling, I concluded that it was better for me to remain silent, and I did so." What erroneous conceptions he must have of the power and authority of the commander of a ship! To pre-

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vent vice, protect the weak, maintain discipline, the commander is all-powerful on board his ship. It is only when he is unjust or tyrannical that he is powerless. The great majority of law-abiding passengers, and his employers, will give him their moral support, and aid him in the preservation of law and order. It is only the weak and vacillating commander who will tolerate any breach of law of which he has proof.

In the last paragraph of Captain Kennedy's article he repeats the question, "Why is gambling permitted?" and answers it—satisfactorily, no doubt, to himself—without taking the "moment's consideration" he recommends. "All Atlantic passenger steamers are furnished with a large supply of wines and liquors, which are not included in the price of passage. Men who gamble drink, and largely, too. The profits derived from the sale of these wines and liquors during the travelling—or, I may say, the gambling—season are so great that it is not to the interest of the steamship companies to abolish gambling," etc.

If Captain Kennedy had taken the "moment's consideration" which he recommends, he might, with his knowledge and experience of the expense of running Atlantic steamers, have surmised that the expensive space required for wines and liquors, smoking-room and bar, the wear and tear, breakage, waste, and attendance might possibly reduce the profits to such an extent as to put them beneath the consideration of the managers and directors of large corporations like steamship companies. If he were impartial and just to the managers and directors he has known, he would have said that some of them consider the bar a blot on their fine ships, and one they would willingly remove were it not that the habits of men who travel make it necessary to maintain it. The legitimate purpose for which the wines and liquors are carried is to supply the temperate with the quantity they are accustomed to take, and which it would be inconvenient for them to carry. The punishment the passenger incurs by exceeding the bounds of strict temperance is the immediate stoppage of his orders. I am happy to say that but few have, in my experience, incurred this punishment.

I sincerely hope that when Captain Kennedy again attempts to bring to public notice the abuses that, he imagines, exist on board Atlantic steamers, his assertions will at least be made with due regard to truth, with more liberality of spirit, and with more charitable judgment.

H. PARSELL, R. N. R.,
commander of the White Star steamer "Majestic."

## II.

### FRETTING ABOUT THE CONSTITUTION.

ONE who should attempt to make a list of those who, voluntarily and without hope of fee or reward, have assumed the duty of helping the President to "preserve, protect, and defend the Constitution of the United States," would find himself transcribing many eminent names. Hamilton, returning from the convention of 1787, is reported to have foreseen and to have remarked that everything depended upon the interpretation put upon the Constitution that had just been framed. Even then there were those who feared, as well as those who hoped. Beginning with that great objector, Jefferson, the inventor of the idea and the name of nullification, there has been an almost unbroken succession of statesmen and politicians who have been disquieted in their righteous minds lest the Republic should receive an injury by an infraction of the Constitution—as they understand it.

Far be it from us to deprecate or to belittle the conservative spirit which resists innovation and the assumption of new and—to the objector—dangerous powers, and thus affords the people an opportunity to consider deliberately whether or not they wish the extension of power to take place. Even pessimism is useful at times. But in by far the largest number of cases the anxiety of the temporary statesmen who flash upon Congress as constitutional lawyers, like *stellæ novæ*, lest the Constitution should be violated, is frivolous. It is stirred by trumpery causes; or it is based upon an illogical reading of the great instrument of our liberties; or the constitutional

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view advanced reduces itself, by its consequences, to an absurdity. The only use of the objections which are included in this class is afterward to afford the student of political history an occasional quarter of an hour of amusement in his otherwise dry reading, when he stumbles upon one of these defunct controversies.

To illustrate: There is perhaps no more delicious bit of unconscious constitutional humor extant than the argument by Senator Jones, of Florida (whose misfortune every one deplores), to the effect that if General Garfield, the elected President of the United States (who, at the time the argument was made, was physically unable to discharge the duties laid upon him), were to yield his office to the Vice-President, and were afterward to recover from the disability, he would not have a right to resume the functions to which he was called; but that Mr. Arthur, the Vice-President, having succeeded to the duties of the office, having in turn been compelled by disability to relinquish those duties, and having subsequently recovered, would be capable, under the Constitution, of resuming the Presidential functions.

There are several recent instances of most unnecessary worry about the Constitution that deserve mention. As is well known, there are many honorable Senators and members of Congress who announce themselves as "friendly to silver," and who denounce their opponents as "enemies of silver" and as engaged in "a conspiracy to degrade silver." It is not worth while to inquire whether or not silver reciprocates the affection and appreciates the loyalty of these devoted champions; that is not the point. But it may be asserted that in more than twoscore and ten speeches made in Congress by the "advocates of silver" during the last half-dozen years, this argument may be found: it is unconstitutional for Congress to discriminate against silver in its coinage laws, because the two metals are linked together in the language of the Constitution. "Gold and silver coin," they say, in effect, "is the money of the Constitution, and you cannot divorce them without violating the spirit of the Constitution." What the Constitution does really say is that no State shall "make anything but gold and silver coin a tender in payment of debts." How this can be transformed into a requirement that the United States shall grant free coinage to both metals is a logical mystery. It is to the credit of those who do not believe that something can be made out of nothing by a mint die that they have never noticed or answered this argument. As well might one undertake to prove that the prohibition upon the States to issue letters of marque and reprisal does not lay upon Congress the duty of establishing a uniform system of piracy.

A few weeks ago the Supreme Court, to the surprise and consternation of the country, decided that, since intoxicating liquors are an article of commerce and of commerce between the States, any State law which forbids the sale in the original package of liquor brought from another State is unconstitutional, since the Constitution has lodged in Congress the exclusive right to regulate commerce between the States. That decision practically rendered nugatory all the laws of all the States, whether prohibitory, local-option, or license in restraint of the liquor traffic; and it led to an early consideration by the Senate of the United States of a bill intended to concede to the States the right which they had always exercised without serious question.

Not to take note of a very few exceptions, the condition of things established by the decision was universally deemed intolerable. The conceded right of Congress to regulate the inter-State commerce in liquor was manifestly a right that could not be exercised, since no law having uniform application throughout the country would be either acceptable or equitable, considering the diversity of public sentiment in the several States on this subject. But when a practical measure, intended to remit the regulation of the traffic to the States, came under discussion, the chronic anxiety lest the Constitution should be infringed was manifested in some amusing forms.

"Mr. President," said Mr. Call, of Florida, "the question would occur again, Are intoxicating spirits exempted? Was it intended that they should be exempted

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by the makers of the Constitution from the subjects of commerce?" "Well, no; and probably Alexander Hamilton never supposed that the clause relating to commerce between the States would be held to have any application to the question of free railroad passes or the 'long and short haul.'"

Mr. Morgan, of Alabama, contributed to the debate another choice bit of the same sort, in offering opposition to the theory that the right of regulation might be conceded to the States as a necessary police power. "They call them police laws, and police regulations. I do not find these phrases anywhere in the Constitution—'police laws' or 'police regulations'!" Certainly not.

Mr. Coke, of Texas, urged that "a strict adherence to the Constitution as it is, and an amendment of it in the mode provided by itself when an amendment is needed, is our hope for the perpetuation of our government, with its attendant blessings." Mr. Eustis, of Louisiana, maintained that the proposed enactment was "simply a declaratory law by Congress—a law to interpret the Constitution of the United States differently from the interpretation which it has received from the Supreme Court of the United States—a law which, by its declaration and interpretation is a nullification, in my judgment, of a provision of the Constitution." Both these gentlemen were in the Confederate army.

Expressions similar to these might be multiplied, but it is unnecessary. The fact is, as every candid person will admit, that there is not a State in the Union which does not desire the right to regulate, by legislation of some sort, the traffic in intoxicating liquor. By the decision of the Supreme Court there is one form of the traffic which no State may prohibit or regulate, and unrestrained liberty therein may render quite useless all regulating laws that are permissible. Yet we find Senators of the United States solemnly anxious lest an injury may be done to the Constitution by the remission to the States of a right which Congress does not want and cannot exercise, and which the States do want—a right which the States have used for forty years; which neither Congress nor the people suspected to be reserved exclusively to Congress until the Supreme Court discovered and announced the fact.

One extra-Congressional instance, briefly referred to, shall end this present list. For some unexplained reason, certain busy-bodies thought it expedient—if they thought about it at all before acting—to make what is called, in the slang of the day, a "kick" against the questions in the population schedule of the census relating to insanity, chronic diseases, and bodily defects. Almost the same questions were asked ten years ago by the enumerators, and were addressed to physicians, four-fifths of whom made replies. So far as any one now remembers, there was then no serious objection to the inquiry. But on this occasion the opinions of constitutional lawyers were requested by an over-enterprising journal. Mr. George Ticknor Curtis, whose name may be found affixed to many a "constitutional opinion" quite different from that of the Supreme Court, regards all "questions of scrutiny into diseases with which the persons enumerated have been afflicted," and also the inquiries relative to mortgage indebtedness, which Congress requires to be put, "as inquiries altogether outside the Constitution," etc. Mr. David Dudley Field evidently holds the same opinion, and expresses it in more sweeping terms. "The power to take the census is simply a power to enumerate the inhabitants of the country, as defined in Art. VI., Sec. 2, of the Constitution," and outside of this "the government has no right" to oblige a citizen to answer questions.

These expressions are quoted, not to argue against the view presented, but merely to exhibit the state of mind into which gentlemen of large mental grasp and high attainments, who also know as well as any one the value to social science of vital statistics, can bring themselves, when they are in a mood to fret about the Constitution. And that, indeed, is the sole purpose of this note. Until human nature is radically changed, there will always be men who will borrow little bits of trouble about what they cannot help; and until the Constitution itself is swept away, there will always be people to be afraid that it is to be broken up and carted away piecemeal.

EDWARD STANWOOD.

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## III.

### WARLIKE EUROPE.

THE most remarkable incident in the recent debate in the Reichstag on the bill for the increase of the German army was the speech of Count von Moltke in its favor. With an impressiveness which carried conviction to all who heard him, he spoke of the "inevitable conflict" which had for more than ten years hung suspended over their heads like a Damocles sword. In his opinion, it would not necessarily be a short struggle, but "there can be another Seven-Years' War, or even a Thirty-Years' War, and woe be to him who sets Europe on fire by hurling a brand into the powder-cask." At the same time he asserted that it would be a people's war; that "in these days of ours it was neither sovereigns nor governments which brought about wars. The period of cabinet wars was over, and there were only left national wars [Volkskriege], with all their incalculable issues."

How far this latter statement of the veteran field-marshal is true it is not our purpose to inquire, but simply to attempt to show that at present peace or war in Europe depends upon other than purely political considerations. No doubt when war is finally declared, there will be found some political pretext; but the true cause will, in all probability, lie elsewhere. So far as one can judge from the external relations of the great powers to each other, there is less reason to look for a great war to-day than at any time during the past ten years. Although there has been a two-fold change of rulers in Germany, the Triple Alliance remains unshaken. The Czar of Russia is evidently anxious to maintain the peace. The Balkan states are unwontedly quiet; and in France it is apparently more than ever true that the republic "*c'est le paix.*" Count von Moltke is right: neither sovereigns nor governments desire war to-day.

But while the political relations of the great powers are unaltered or have even become more peaceful, their relations as military powers have undergone a tremendous change since the establishment of the German Empire. And here it is that the venerable soldier-statesman discerns the inevitable conflict. This change can, perhaps, be best shown by comparison. Ten years ago, only, the standing armies of Germany, Austria-Hungary, France, and Russia, on their peace footing, as nearly as can be ascertained,—accuracy is, of course, out of the question,—numbered about 1,580,000 men. To-day, with the same boundaries to defend, with peoples apparently more wedded to peace than ever, and with rulers certainly anxious to avoid conflict, these armies on their present peace footing amount to at least 2,180,000—an increase of 600,000 men; which, in case of war, means an addition of between two and three millions of fighting men to the forces that can be engaged. Yet with this enormous increase, each of the powers is straining every nerve to make it still greater in the coming years. To state the case differently and more particularly, in 1870 France was able to put into the field 300,000 men; at Metz 150,000, at Strasburg 100,000, and at Châlons, in reserve, 50,000. When the war broke out, Germany had 360,000 men under arms; but this number was increased to over a million before the war had lasted many weeks. In 1890, within three weeks after the declaration of war, France could send into the field five armies of 200,000 men each, and have in reserve two others each 150,000 strong; all men who have been trained from three to five years—not merely an armed mob. That is, in other words, France, as a military power, is five times as strong as she was when Olivier and his master "with a light heart" entered into the conflict with Germany. In numbers, in fact, and in the length of the training which her soldiers have received, she is probably superior to her hereditary foe.

When Russia fought with Turkey in 1877, her war strength was given as 1,831,617 men. Should she be brought into conflict to-day, she could enter the campaign with two lines of trained troops, according to a competent military authority; the first numbering 1,400,000 men, the second 1,100,000—or 700,000 more than she had thirteen years ago. The dual empire of Austria is not far behind these figures. Her total war strength—that is, of trained soldiers—is nearly two millions, or, to speak more accurately, 1,800,000, with more than 200,000 able-bodied and trained soldiers in reserve. As to Germany, it is more difficult to speak with certainty, as her military

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authorities are very reticent in regard to the condition and numbers of the army; but an English military writer says that within twenty days after the outbreak of hostilities she could place 1,500,000 armed men in the field and leave half a million more trained soldiers in their homes.

Now, it is unnecessary to waste words in the attempt to prove that these enormous armies are a menace to the peace of Europe, and that their constant increase only apparently hastens the time of the inevitable collision. The extreme limit is rapidly approaching when all, without exception, who can bear arms will be in the ranks, and then, further preparation being well-nigh impossible, Germany will strike. For there is no reason to doubt that the policy of Bismarck, so frankly declared in 1871, still prevails—that when Germany is convinced of the necessity or inevitableness of war, she will "select the moment when war can be made with the least sacrifice and the least possible risk for the nation."

The danger, however, does not consist wholly in the increase of the size of the armies, but possibly even more in their proximity, their closeness of contact. In nothing has the military art so improved within a century as in the rapidity with which great bodies of men can be mobilized, or formed into armies, and brought into the field. What in the first Napoleon's time it took weeks and months to accomplish in the preparation for a campaign, can be done now in as many days. Strategic railroad construction has taxed the energies of the various powers for the past few years with results which are certainly marvellous. Germany, by means of her twelve railways to her western and eleven to her eastern frontier, could mass more than half a million men in seven days at any threatened point. France could do the same in eight days, while Austria would take fourteen in bringing her troops by her six railways to her Galician frontier. Russia alone stands at a great disadvantage with the other powers in this respect. But she has been and still is busy with important railway and road construction, which will greatly aid in the rapid transportation of her troops from one part of her vast empire to the other. Germany, still further, is divided into seven distinct theatres of war, in each of which are depots of *matériel* and magazines of provisions which can be filled in three days. Every corps, division, brigade, and regiment in the army, together with their respective reserves, know, in the event of war in any quarter, without definite orders, to what point they should go and even the road they should take; every conceivable detail being provided for. Mr. Gladstone was certainly right when he said that the German army was "the most tremendous weapon the skill of man ever forged." The possession of such a weapon greatly heightens the probability of its being used promptly in case of need. A man who has a revolver in his pocket is much more likely to draw it on a chance adversary than he would be to go home and get a blunderbuss to fire at him.

There is a still greater danger to the peace of Europe, however, than that which arises from the size of the armies of the four great powers, or their excessive mobility. It is to be found in some recent movements and disposition of great bodies of troops. The probable theatre of a general war has shifted of late from the French to the Russian frontier of Germany. While the French have exerted themselves as no other nation has done to form an efficient army, they have not so disposed it as to be an actual menace to their former antagonist. Their task has been to fortify the eastern frontier for defensive, not offensive, operations. They have constructed vast intrenched camps, supported by outlying forts, along the line of the Meuse and the Moselle. Some military critics, both English and German as well as French, hold that these works detract from the efficiency of the French army, since they will require at least a million of men adequately to garrison them in time of war.

On the Russian frontier, on the other hand, the military situation is very different, and is also constantly changing. This frontier, separating Russia from Germany and Austria, is a line about 1,200 miles in length. The greater part is due to the fact that Poland is thrust forward, as it were, 400 miles into the German Empire. A glance at the map will make it evident, therefore, that an army in Poland threatens the German provinces of East and West Prussia on the north, of Posen and Silesia on the west, and the Austrian province of Galicia on the south. Strategically, then,

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Russia, holding this position, has a great advantage over the allies in being within a half-circle the perimeter of which they are obliged to defend. The region bordering on this frontier has been divided by the Russian staff into three military districts, those of Vilna, Warsaw, and Kieff respectively. Two years ago, when a movement of Russian cavalry toward the frontier caused intense alarm in Vienna and thence throughout Europe, it was made public that she had then massed an army 200,000 strong on the frontier, which in large part is a mere line designated by painted pillars. The rest of the Russian army was scattered throughout the empire, especially in the central and eastern provinces, two corps being stationed in the Caucasus. Opposed to these Germany had four and Austria two army corps, or together 143,390 men—about 56,000 less than Russia's eight corps. At the opening of the spring of 1890 the Russian troops on the frontier had been increased to 250,000, while the allies had added only 17,000 men to their forces. Thus there are now, figuratively speaking, 208 Russians on every mile of the frontier to 133 German-Austrians —75 more men for every mile. But this is not all. There has been a rapid concentration of the rest of the army within supporting distance of the forces in the frontier military districts. A division has been transferred from the Caucasus to Kieff. The troops have vanished from many of the eastern and central provinces and garrison towns, and, to quote the words of a recent English military writer, "Poland and Volhynia, with the towns on the Lower Dwina and Middle Dnieper, are alive with troops." In other words, the Russian army is being massed as rapidly as is possible in time of peace upon her southwestern frontier.

This highly menacing movement, it should be said, does not necessarily mean war on the part of Russia. It is simply an absolutely necessary measure in order to have the troops ready to hand when they are needed, arising from her great inferiority to her neighbors in railways and highways passable for troops, as well as in the vast distances to be traversed. Still it cannot be doubted that, when "armies of men stand scowling into one another's eyes across a fanciful frontier marked by a few parti-colored posts," war can never be far distant.

JAMES M. HUBBARD.

## IV.

### LIGHT OR SHADOW?

IN THE NORTH AMERICAN REVIEW for May, Mr. George Parsons Lathrop urges as a most desirable thing audacity in female novelists. The word audacity, as employed in our vernacular, is a strong one, and repulsive to the instinctive delicacy of every true woman. We should hope that Mr. Lathrop used the term with a better significance did he not plainly urge the claims of our sex in arguments and illustrations which leave no doubt of his meaning. His great regret seems to be that in the present state of affairs "the utterances of women in books must always be more bounded and guarded than those of men"; for which condition of literature we believe the world is devoutly thankful.

This is Mr. Lathrop's position: maiden innocence is not to be kept in ignorance; woman has a right know all that is going on concerning her; the right to know gives the right to talk and to write. Since, says he, we "live under the shadow of the tree of the knowledge of good and evil," we are to "make the best of our lot, and to throw as much light as possible into the shadow"; in other words, get from the tree of forbidden knowledge as many apples as possible, toss to other Eves as many as possible, and then, instead of hiding, like Mother Eve, our disobedient heads, go out and throw light into the shadowy world by full and free discussion in words and books of all we have learned by eating the forbidden fruit.

Throwing light is a praiseworthy occupation, provided always that one is so permeated with the pure element that the shadow may not creep into one's own soul. Just what Mr. Lathrop means by throwing light into the shadow is not clear, but the *shadow* is dense in this passage quoted from Mrs. Stoddard as an example of the ability of one woman novelist to lighten the world's shadow: "I do not see what a profound love has to do with principle or reason. If love was not a separate power, impregnable to conscience, human nature would be a feebly-sustained thing"—a sentiment which shames all womanhood, though expressed, as Mr Lathrop says, by a

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"moral, obedient, and kindly woman." It seems to us fit companion for the brute described in another passage, justly quoted as proof of Mrs. Stoddard's "audacity."

To many of us such sentiments and characters appear to cast a shadow rather than to throw light, and we are loath to believe with Mr. Lathrop that they shock the public any less now than when published twenty-five years ago. In this way has begun that emancipation from "the narrow bounds of mere conventional identity" which he regards as a healthful change. May it not be, rather, an evidence of some insidious disease in the growth of woman's life and work?

Mr. Lathrop confesses that "many aberrations and extravagances of the feminine mind will occur in the course of the new development which it is taking," but consoles himself with the reflection that when women "write vicious books they really lower only themselves, and not their sex collectively." He might as well say that a pure and beautiful life elevates only itself, and has no influence on its sex collectively. One cannot help being, in some sense, his "brother's keeper": each life touches some other life for good or evil; and a vicious book has multiplied power in reaching where the author's spoken words could not.

But our champion goes further, saying that in this emancipation of women's minds there is a possibility that in the future "we shall have some female Shakespeare who will defy decency as much as the greatest of English men poets defied it": still, says he, "we should have to face it." God forbid such emancipation! It is well that Mr. Lathrop so candidly forewarns us of the end to which such freedom leads. To rise, as he pictures, "out of this little individuality into the larger one of a free observant, independent mind," is, indeed, desirable; but if it be true that woman can thus rise only by making stepping-stones of her delicacy and modesty, it will be at too fearful a cost to herself and to the world.

Yet we are told that the world is eager for more freedom of expression among thinking women; that its morbid taste is gratified by Marie Bashkirtseff's diary, albeit a "somewhat abnormal affair," but acceptable and approved simply because it "throws light." The world is eager for many things not entirely wholesome. It may be our duty to hold that eagerness in check rather than pander to such "abnormal appetites" by encouraging young women to know and talk and write what can in nowise benefit them or the public.

When Mr. Lathrop tells us that women are to "lessen bestiality and crime" by learning, talking, and writing about them, he forgets that their influence for purity is owing in large measure to their ignorance of the impure. The very presence of an innocent girl holds crime in check, and arouses worthier ambitions than arguments or reproaches from a woman learned in the code of criminal life. Profanity is silent before her, crime abashed, and many a husband or father or brother is stirred to nobler impulses by the daily life of one such trusting and, if you please, ignorant woman.

Has not woman quite room enough to expand without overstepping the bounds of her womanly identity? All fields of literature welcome her; all nature invites her study; in her home there is open a page in the science of life wherein her womanly heart may find work and wisdom. She complains of no censorship, desires no wider range of knowledge or freedom of expression than that which satisfied her noble sister, Mrs. Browning, whose intellect, says Mr. Lathrop, was "strong and direct beyond that of the average of her sex," but to whom he could never apply the term "audacity," as he has applied it to Mrs. Stoddard, with the half-apologetic remark that "there are times when such audacity is needed."

After all," says he, "one must go deeper than the word and the letter, and build upon the spirit of the young woman, in order to make her safe from contamination." There we may agree with him, though as to the method of building we turn for instruction to an old-fashioned book, to the words of such an one as "Paul the aged": "Whatsoever things are pure; whatsoever things are lovely; whatsoever things are of good report—if there be any virtue, and if there be any praise, think on these things."

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